

# Ohio Farm Labor Handbook

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# Ohio Farm Labor Handbook

## Fourth Edition

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# Introduction

The adage, ignorance of the law is no excuse, applies to all persons including Ohio farm employers and employees. Employers and employees alike face an increasingly complex set of laws and regulations that govern farm employment. There are both federal and state labor laws and regulations as well as federal and state agencies involved in the enforcement. Some farm labor laws and regulations are long standing and well understood while others are more recent and not so well understood. Some of the regulations affect only a small number of farm employers and employees while others affect all farm labor. Other labor regulations do not currently affect farm labor but there remains the possibility of their being extended to farm labor.

This Handbook is intended to be a reference to the labor laws and regulations that govern farm labor. This Handbook will provide information for the em-

ployer and the employee. By studying this reference, an employer or employee will gain a basic understanding of farm labor law and will also learn which agencies to contact for more detailed information about specific questions.

There are cautions, however, to employers and employees who use this reference source. This Handbook is an information source, not an official interpretation of any of the laws or regulations. **This summary of the labor laws and regulations that affect agriculture does not have the weight of law.** Therefore, readers assume responsibility for any actions they take based on information from this Handbook. Note also that the Handbook is thought to be current as of May 1992. Readers need to recognize the possibility of changes in laws and regulations after May 1992 making material in this Handbook obsolete.

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# Acknowledgements

The Ohio Farm Labor Handbook is in its fourth edition. The latest edition includes an update of all sections from the third edition. In addition, a completely new section on the American Disabilities Act has been added. All sections related to laws and regulations have been reviewed by a responsible agency.

The work of several authors of sections in the first three editions are incorporated into this edition. Those making important contributions to earlier editions include: Darrel Acker, Karl Clemons, Herbert Crown, Robert Fleming and Clair Young. Especially noteworthy is the work of Paul Wright and Nan Still, co-authors of the third edition of the Handbook. Their work kept the Farm Labor Handbook project "alive" and provided a valuable reference for farm labor employers and employees from 1987 to publication of the fourth edition.

The cooperation of federal and state agencies responsible for the administration of farm labor laws and regulations is essential to the publication of this Handbook. Knowledgeable people in these agencies provided reference material and served as reviewers. Their cooperation is most sincerely acknowledged.

Appreciation is also expressed to Richard Duvick for his review of several sections of the Handbook, Cathy Montgomery for word processing assistance and to John Victor and Janice DiCarolus for design of the cover. Special appreciation is given to David Scardena for editing and production.

**Bernard L. Erven**  
**Russell T. Coltman**



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# Federal Minimum Wage Law

## Objective

Federal minimum wage standards are established in the Fair Labor Standards Act of 1938, as Amended. The Act also establishes overtime pay, equal pay, record keeping, and child labor standards for covered employment unless a specific exemption exists. The objective of the Act is to establish fair labor standards in employment in and affecting interstate commerce. The Act is specifically concerned with the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.

The child labor provisions of the Act are discussed in the child labor section of this handbook. This section is concerned with the minimum wage and related provisions of the Act. The Fair Labor Standards Act as Amended includes separate standards and some exemptions for agricultural employment. Only the agricultural employment provisions are discussed here.

## Coverage

Agricultural employers who employ more than 500 man-days of labor in any calendar quarter of the preceding calendar year must pay at least the minimum wage. The Act exempts all other agricultural employers from the minimum wage provisions.

## Employer Provisions

### Minimum Wage

The minimum wage for farm workers covered by the Act is \$4.25 an hour. There are no increases scheduled in the minimum wage of \$4.25 per hour. This is the same minimum rate as for nonfarm employees. Workers paid on an hourly, weekly, monthly, or piece-rate basis are covered by the Act. The hourly rate for an employee paid a salary for a regular or specified number of hours a week is obtained by dividing the salary by the number of hours. The hourly rate for an employee paid on a piece-

rate or piece-work basis is obtained by dividing the total weekly earnings by the total number of hours worked in the same week.

Wages required by the Act are due on the regular payday for the pay period covered. Amounts held for bonuses or other reasons do not count toward the minimum wage until actually paid.

### 500 Man-Day Test

Employers who employed more than 500 man-days of farm labor in any calendar quarter of the preceding year must pay the minimum wage. A "man-day" is any day during which an employee performs agricultural labor for at least one hour. Five hundred man-days is approximately equivalent to seven employees employed full-time in a calendar quarter (7 employees X 5.5 days per week X 13 weeks = 500.5 days).

If the employer did not employ more than 500 man-days of agricultural labor in any quarter of the preceding calendar year, his agricultural employees are exempt from the minimum wage provisions of the Act for the *entire following* calendar year.

All employees except members of the employer's immediate family are included in the 500 man-day test. If the employer is a partnership or corporation, there are no family exemptions.

The 500 man-day test applies only to employers of farm labor. In effect, the provision exempts small farms from the minimum wage standards *unless* the small farm is controlled by a conglomerate. If the small farm is controlled by a conglomerate, the small farm must pay the minimum wage.

### Exemptions

The minimum wage provisions of the Act do not apply to certain exempt employees. They are:

1. Employees of an employer who did not employ more than 500 man-days of agricultural labor

## Minimum Wage

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during any calendar quarter during the preceding calendar year.

2. Employees who are members of the employer's immediate family. If the employer is a corporation or a partnership, there are no family exemptions.
3. Hand harvest workers who commute daily from their permanent residence, are paid on a piece-rate basis for work generally recognized as piece-rate work, and were employed in agriculture less than 13 weeks during the preceding calendar year.
4. An employee who is 16 years of age or under, employed as a hand harvest laborer and paid on a piece-rate basis for work generally recognized as piece-rate work, is employed on the same farm as the parent or person standing in the place of the parent, and is paid on a piece-rate basis at the same rate as employees over age 16 on the same farm.
5. Employees principally engaged in the range production of livestock.

### Perquisites

The reasonable cost or fair value of housing, board, or other facilities and items provided employees may be added to the cash wages paid a worker in the determination of total compensation. Consequently, an employer would be in compliance with the Act if cash wages were less than the minimum hourly requirement, but the difference was made up through perquisites.

The value placed on a perquisite is the reasonable cost to the employer of providing the perquisite. The total value may include the cost of operation and maintenance, including depreciation and interest. Fair rental value also can be used in some cases where housing or a garden plot is furnished.

The employee must receive the benefits of the facility for which he or she is being charged and the employee must voluntarily accept the facility. Also, the perquisite must be offered for the benefit of the employee and not for the benefit or convenience of the employer.

Employers should contact the nearest Wage and Hour Division of the U.S. Department of Labor for more detailed information concerning individual situations.

### Overtime Pay

Unless exempted from the overtime provisions of the Act, an employer must pay workers overtime of at least one and one-half times their regular rate of pay after 40 hours of work during any work week. In general, the Act does not require that farm workers be paid overtime. However, if farm workers work on products grown by a farmer other than their own employer, they may also be entitled to overtime pay of at least one and one-half times their regular pay for all hours worked over 40 in a work week.

### Student Wages

Full-time students may be employed at rates lower than the minimum required for other farm workers. The wage paid to full-time students must be no less than 85 percent of the minimum wage otherwise applicable. The maximum number of full-time students that can be employed on any work day at the subminimum rate is six. Students employed at subminimum rates can work no more than 20 hours per week during school weeks, and 40 hours per week during summer months. Employers must obtain a Full-time Student Certificate if student employees are to be paid less than the minimum wage. These certificates are available from the regional office of the U.S. Department of Labor. The address is:

U.S. Department of Labor  
Wage-Hour Division, Section 14  
Special Minimum Wage Programs  
230 South Dearborn Street, Room 562A  
Chicago, IL 60604-1591.

### Handicapped Workers

There are special provisions in the Act relating to minimum wage requirements for handicapped workers. Employers may obtain information concerning these provisions from local offices of the U.S. Department of Labor.

### Record Keeping

Payroll records containing the following information with respect to each worker subject to the minimum wage must be kept:

- 1. Name in full and home address, including zip code
- 2. Sex and occupation in which employed
- 3. Birth date (if under 19 years of age)
- 4. Number of man-days worked each week or each month
- 5. Time of day and day of week when workweek begins
- 6. Basis on which wages are paid (e.g., per hour)
- 7. Hours worked each workday and total hours worked each workweek
- 8. Total daily or weekly earnings
- 9. Total additions to or deductions from wages paid each period
- 10. Total wages paid each pay period
- 11. Date of payment and pay period covered by payment

Only items (1) and (2) are required for employees who qualify for exemption from the minimum wage as members of the employer’s family.

Items (1), (2), (3), and (4) need to be maintained for those hand harvest laborers exempt from minimum wage provisions as explained under exemptions earlier in this section of the handbook.

The regulations do not prescribe a special form of record nor are any reports necessary. Records kept for other purposes will suffice if they contain the necessary information.

These record keeping requirements do not apply to an employer not subject to the Act as determined by the 500 man-day test. However, an employer with nearly 500 man-days of labor in a calendar quarter should have a record of the number of man-days worked each week or each month by each employee. Such a record will provide the employer a basis for proving the employer is not subject to the Act. Payroll records are to be kept for the previous three years.

Poster

An official poster containing a “Notice to Employees,” furnished by the Wage an Hour Division of the U.S. Department of Labor, must be posted where employees can readily see it. This poster contains basic information about the Act.

Employee Provisions

There are several methods available to employees for recovering unpaid minimum wages:

- 1. The Wage and Hour Division of the U.S. Department of Labor may supervise payment of back wages.
- 2. The Secretary of Labor may bring suit for back wages and an equal amount as liquidated damages.
- 3. An employee may file a private suit for back pay and an equal amount as liquidated damages, plus attorney’s fees and court costs.

An employee may not bring suit if he or she has been paid back wages under the supervision of the Division or if the Secretary has already filed suit to recover the wages.

A two-year statute of limitations applies to the recovery of back pay. However, if the violation was willful, an employee has three years in which to recover back pay.

Responsible Agency

The Wage and Hour Division of the U.S. Department of Labor is responsible for the minimum wage provisions of the Act. Ohio District offices of the Division are:

|            |  |
|------------|--|
| Cincinnati | 525 Vine Street, Suite 880<br>Cincinnati, OH 45202-3268<br>Telephone: (513) 684-2942<br>(Dayton, Lima)   |
| Cleveland  | Room 817, Federal Office Building<br>1240 East 9th Street, Cleveland<br>OH 44199-2054<br>Telephone: (216) 522-3892<br>(Akron, Youngstown)                                  |
| Columbus   | Room 646, Federal Office Building<br>200 North High Street, Columbus,<br>OH 43215-2475<br>Telephone: (614) 469-5677<br>(Athens, Cambridge, Mansfield,<br>Sandusky, Toledo) |



## References

*Handy Reference Guide to the Fair Labor Standards Act*, WH Publication 1282, U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, April 1990.

*The Fair Labor Standards Act of 1938, as Amended*, Publication 1318, U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, April 1990.

## Special Note

There is an Ohio Minimum Wage Law. However, for agricultural employers, the federal and state minimum wage provisions are the same. If an employer is in compliance with the federal law, the employer will also be in compliance with the state law.

# Employment of Minors

## Introductory Note

This section of the Handbook covers the federal and state laws concerned specifically with the employment of minors in agriculture. Three areas are covered:

1. The Federal Fair Labor Standards Act provisions for child labor. The child labor section of the Act is concerned with ages at which minors can be employed.
2. Jobs in agriculture declared hazardous by the U.S. Secretary of Labor and the associated employment restrictions for minors.
3. Jobs in agriculture prohibited by Ohio Code and other general Ohio employment restrictions for minors.

These three areas are closely related, but there are separate regulations for each area affecting employment of minors. Where state and federal regulations are both applicable, the more stringent standard applies.

## Objectives

The objectives of the laws and regulations affecting employment of minors are to provide for the health, safety, and welfare of employed youths and to prevent their exposure to certain hazardous jobs.

## Coverage

Employment of minors under age 16 is subject to federal requirements set by the Fair Labor Standards Act, most recently amended in 1990. The requirements for agriculture are fewer than those for other industries. Employment of children by their parents or by persons standing in the place of their parents on a farm owned or operated by such parents or persons is exempt from the Act. There are some other specific exemptions to coverage as discussed in the employer provisions section below.

Effective February 1, 1967, the U.S. Secretary of Labor declared certain jobs in agriculture hazardous for the employment of children under the age of 16 years. The exemption for children employed by their parents or by persons standing in the place of parents on farms owned or operated by such parent or persons discussed in the previous paragraph applies to hazardous occupation regulations. There are also specific exemptions for youth having completed a tractor and farm machinery certification course. This course is conducted by extension agents and/or vocational agriculture teachers. Student-learners enrolled in a bona-fide vocational education training program in agriculture are also exempt from some of the hazardous occupations.

In addition to the federal hazardous occupation regulations, there are applicable state regulations. For most Ohio laws, a person under the age of 18 is considered a minor. The Ohio Revised Code (Section 4109.05) specifically prohibits minors from working in certain hazardous jobs related to agriculture. The Ohio list of hazardous occupations is the same as the federal list. The Ohio code section and related regulations say the Ohio hazardous occupation list applies to those *under age 16*.

Several sections of the Ohio Revised Code concerned with the employment of minors do not apply for minors employed on farms. These include obtaining an age and schooling certificate (except for children of migrant workers); keeping a list of minor employees; and paying the minimum wage.

## Employer-Employee Provisions

### Federal Child Labor Regulations in Agriculture (from Fair Labor Standards Act)

There are no regulations in the Fair Labor Standards Act affecting children age 16 and older.

Children *14 and 15 years old* can be employed in any non-hazardous agricultural occupation outside school hours.

Children *under 14 years old* may be employed in agriculture if one or more of the following conditions are met:

1. Children *12 or 13 years old* can be employed outside school hours if one of the following is met:
  - a. the parents give written consent (or a person standing in the place of the parents),
  - or
  - b. employment is on the same farm where the parents are employed (or a person standing in the place of the parents).

NOTE: Ohio law requires age and schooling certificates for minors working in agriculture who reside in a labor camp. Such certificates cannot be issued to minors under age 14.

2. Children *under 12 years old* can be employed if one of the following is met:
  - a. employed by their parents (or a person standing in place of the parents) on a farm owned or operated by their parents,
  - or
  - b. employed with the parents' written consent on a farm where employees are exempt from federal minimum wage provisions under the 500 man-day test (see minimum wage section of thisHandbook).

The U.S. Secretary of Labor is authorized by the Act to grant a waiver from these employment restrictions for local children *10 and 11 years old*. In such cases, the children must be employed as hand harvesters in an agricultural operation which has been, and is customarily paid on a piece-rate basis. The employment of the children cannot be for more than eight weeks in any calendar year. A single employer or a group of employers may apply to the Secretary for the waiver. The Secretary may not issue a waiver unless data are provided by the applicant to demonstrate that:

1. the crop to be harvested is one with a particularly short harvesting season
2. the child labor provisions of the Act would cause severe economic disruption to the industry
3. the employment of the children would not be deleterious to their health or well-being
4. the level and type of pesticides and other chemical used would not have an adverse effect on the health of the children

5. individuals age 12 and above are not available to harvest the crop
6. children under 12 years of age have been traditionally and substantially employed in the industry without displacing substantial job opportunities for individuals over 16 years of age

If the Secretary grants a waiver, it shall require that the children:

1. be employed outside of local school hours
2. must commute daily from their permanent residence to the farm where employed
3. be employed for not more than eight weeks between June 1 and October 15 of any calendar year and in accordance with any other terms and conditions prescribed by the Secretary

An individual employer or a group of employers may apply to the Secretary for the waiver. Applications for waiver are to be filed with the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. Applications should be filed at least six weeks prior to the time the waiver is to be in effect.

For each violation of the child labor provisions of the Fair Labor Standards Act, employers may be subject to a civil money penalty of up to \$10,000 per violation. Willful violation and offenses after conviction for a similar offense can result in fines up to \$10,000, up to 6 months imprisonment, or both.

## Hazardous Occupations in Agriculture

(Federal Regulation)

Employers are prohibited from hiring children under 16 years old in jobs declared hazardous by the U.S. Secretary of Labor. This same list of hazardous occupations has been adopted into Ohio law. Jobs designated as hazardous to youth under 16 years old include:

1. Operating a tractor of more than 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.
2. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

- a. corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner
- b. feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a non-gravity-type self-unloading wagon or trailer
- c. power post-hole digger, power post driver, or non-walking-type rotary tiller.
3. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines: trencher or earth moving equipment; fork lift; potato combine; or power-driven circular, band, or chain saw.
4. Working on a farm in a yard, pen, or stall occupied by: a bull, boar, or stud horse maintained for breeding purposes; or sow with suckling pigs, or cow with newborn calf (with umbilical cord present).
5. Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than six inches.
6. Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of more than 20 feet.
7. Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.
8. Working inside a fruit, forage, or grain storage facility designed to retain oxygen deficient or toxic atmosphere; an upright silo within two weeks after silage has been added or when a top unloading device is in operating position; a manure pit; or a horizontal silo when operating a tractor for packing purposes.
9. Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq. as amended by the Federal Environmental Pesticide Control Act of 1972) as Category I of toxicity identified by the word "Danger" and/or "poison" and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word "warning" on the label.
10. Handling or using a blasting agent, including but not limited to dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.

11. Transporting, transferring, or applying anhydrous ammonia.

Minors aged 14 and 15 who have completed training and have received certification in a bona fide 4-H or FFA tractor operator course (Item #1 above) and machinery operator course (Item #2 above) can apply for and accept employment relating to these two areas within the limits indicated in Items 1 and 2. Certificate training programs are not available for those tasks listed in Items 3 through 11. Employment of youths under 16 years of age is prohibited for these jobs.

An exemption from the hazardous occupations items 1 through 6 is made for certain student-learners. Specifically, student learners in a bona fide vocational agriculture program may work in the occupations listed in items 1 through 6 of the hazardous occupations order under a written agreement which provides that the student-learner's work is incidental to training, intermittent, for short periods of time, and under close supervision of a qualified person; that safety instructions are given by the school and correlated with on-the-job training; and that a schedule of organized and progressive work processes has been prepared. The written agreement must contain the name of the student-learner, be signed by the employer and a school authority, each of whom must keep copies of the agreement.

Employers should check the specific level of certification for prospective employees who are 14 or 15 years old. If, for example, the youth has been certified for only Item #1 as indicated above, the youth cannot be hired to do tasks listed in Item #2. Employers who employ minors in positions that require training and certification must keep a copy of certificates of completion on file with the minor's employment records.

Employers are responsible for instructing employees on safe and proper operation of equipment. Employers are also required to supervise work where feasible and to make mid-morning and mid-afternoon checks where field work is involved.

### Jobs Prohibited by Ohio Code

The Ohio Revised Code prohibits minors under age 16 from working in certain jobs related to agriculture. The prohibited jobs listed in the state regulations are the same as those termed hazardous occupations in agricul-

# Minors

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ture in the federal regulations (listed in a preceding section).

Categories of minors not subject to the state hazardous occupation regulations include:

1. minors who have graduated from an accredited high school
2. minors who are students participating in a vocational program approved by the Ohio Department of Education
3. minors who are currently heads of household or are parents contributing to the support of their children
4. minors who are employed or permitted to work on a farm operated by their parents, grandparents, or guardians where they are members of the guardians' household.

Minors residing in agricultural labor camps are not exempt.

## Hours and Employment in Agriculture

Under federal regulations, minors under 16 years old may not be employed during school hours unless employed by their parent or a person standing in the place of their parents. Also, a crew leader who takes workers to an area where schools are open may not allow minors under 16 to work during the hours school is in session in the school district where the farm work is being done. No provision is made for the release of individual children or any class or grade to work in agriculture.

State regulations pertaining to hours of employment for minors apply to minors employed in agriculture and are more restrictive than federal regulations. Unless a minor works on the farm of a parent, grandparent, or guardian (and is a member of the guardian's household); is participating in a state approved vocational program; is a head of household contributing to support of a child; has graduated from an accredited high school; or is otherwise exempted by the Ohio Revised Code (Section 4109.06), the minor is subject to the following restrictions.

1. No person under 16 years old is to be employed:
  - a. during school hours
  - b. before 7:00 a.m. or after 9:00 p.m. from June 1 to September 1 or during any school holiday of five school days or more duration, or after 7:00 p.m. at any other time

- c. for more than three hours a day in any school day
  - d. for more than 18 hours in any week while school is in session
  - e. for more than eight hours in any day which is not a school day
  - f. for more than 40 hours in any week that school is not in session.
2. No person under 16 years old is to be employed more than 40 hours in any one week nor during school hours unless the employment is incidental to a state approved program of vocational cooperative training, work-study, or other work-oriented program with the purpose of educating students.
3. No minor is to be employed for more than five consecutive hours without allowing the minor a rest period of at least thirty minutes. The rest period does not have to be included in determining the number of hours the minor has worked.

## Age and Schooling Certificates

Agriculture has been granted an exemption from the requirement of obtaining age and schooling certificates. Generally, any employer hiring minors of school age are required to have that minor furnish an age and schooling certificate. Chapter 4109 of the Ohio Administrative Rules and Regulations states that minors working in agriculture do not need to obtain an age and schooling certificate *unless* they reside in an agricultural labor camp. Age and schooling certificates are to be issued to minors between the ages of 14 and 18. Age and schooling certificates are not to be issued to minors under age 14. Certificates are not required for students age 16 and 17 during summer employment.

## Record Keeping

Federal regulations require employers of minors under 16 years of age to maintain and to preserve records containing the following data about each minor employed:

1. Name in full.
2. Place where the minor lives while employed. If the minor's permanent address is elsewhere, both addresses should be given.
3. Date of birth.
4. Evidence in writing of any required consent of the parent or person standing in place of the parent.

Minors employed by a parent are exempt from these record keeping requirements.

The Ohio Revised Code exempts agricultural employers from record keeping provisions related to minors. However, the Ohio Revised Code (Section 4109.10) requires an agreement as to wages for work to be performed be made between the employer and a minor before employment begins. For the protection of the employer, this agreement should be in writing and signed by both parties. The employer also must provide a written statement of earnings due and the amount to be paid to the minor on or before each payday.

## Responsible Agencies

The federal agency responsible for enforcement of the Federal Child Labor Laws and Federal Hazardous Occupation Regulations is the U.S. Department of Labor, Wage and Hour Division. Area offices in Ohio are:

|                   |  |
|-------------------|--|
| <b>Cincinnati</b> | 525 Vine Street, Suite 880<br>Cincinnati, OH 45202-3268<br>Telephone: (513) 684-2902                             |
| <b>Cleveland</b>  | Room 817, Federal Office Bldg.<br>1240 East 9th Street<br>Cleveland, OH 44199-2054<br>Telephone: (216) 522-3892  |
| <b>Columbus</b>   | Room 646, Federal Office Bldg.<br>200 North High Street<br>Columbus, OH 43215-2475<br>Telephone: (614) 469-5677. |

The state agency responsible for enforcement of the Ohio Code as it relates to prohibited jobs for minors is:

Division of Minimum Wage, Prevailing Wage, and Minors  
Department of Industrial Relations  
2323 West Fifth Avenue, P.O. Box 825  
Columbus, OH 43216  
Telephone: (614) 644-2239.

## References

“Child Labor Requirements in Agriculture Under the Fair Labor Standards Act,” *Child Labor Bulletin No. 102*, U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division. WH-1295, Revised July, 1990.

*Regulations, Part 575: Waiver of Child Labor Provisions for Agricultural Employment of 10- and 11-Year-Old Minors in Hand Harvesting of Short Season Crops*, WH Publication 1438, U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, October 1980.

*Handy Reference Guide to the Fair Labor Standards Act*, WH Publication 1282, Revised, April 1990. U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division.

*The Fair Labor Standards Act of 1938, as Amended*, WH Publication 1318, Revised, April 1990. U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division.

*Ohio Revised Code* (Chapter 4109).

*Ohio Administrative Code* (Chapter 4101:9-2).

Further information regarding the 4-H Club and vocational agriculture certification programs can be secured from any county Cooperative Extension office or from any instructor of vocational agriculture.





# Ohio Workers' Compensation Law

## Objective

Workers' Compensation is an income maintenance and health care insurance program that covers work related injuries, deaths, and occupational diseases.

## Coverage

Ohio law requires that every employer, including farm owners and operators with one or more employees, must carry workers' compensation insurance. Coverage must be obtained for both full-and part-time workers. The employer pays the entire cost of workers' compensation and may not deduct any portion of the premium payment from an employee's wages or salary.

The only exceptions to the necessity of carrying workers' compensation insurance on employees are for domestic and casual employees. Household employees and casual employees need not be covered unless the employee's wages per quarter exceed \$160. Any time employees are hired in relation to a business, they must be covered.

If an employer carries workers' compensation coverage, the employer will not be held responsible for the costs of employees' claims and are protected from most lawsuits that might arise from such claims. Without coverage, the employer may be held responsible for all costs of an employee's claim.

## Employee/Employer Relationship

An employee/employer relationship exists where there is a contract of hire between parties. The contract may be written or oral. The contract may be expressed or implied from the circumstances.

### Farm Workers Under 18

In Ohio, any individual under the age of 18 is considered a minor. An employer must carry workers'

compensation insurance on all employees, including minors. The age of the employee makes no difference.

The employer should be aware that it is unlawful for minors under 16 years of age to work in certain jobs. If an under age employee is injured while performing such a job, the employer may be ordered to pay the injured minor an award in addition to the compensation. For a list of occupations that minors may not hold, see the Employment of Minors section of this handbook.

### Seasonal Employees

If an employer hires even one employee seasonally or part-time, the employer needs to be covered by workers' compensation insurance.

### Exchange or Trade Labor

Two or more farmers who exchange or trade labor can raise special coverage questions. In case of an injury or accident, the Bureau would have to determine whose coverage applied. Exchange labor usually creates an employee/employer relationship.

In order to avoid problems, agree with the other farmer(s) on the fair wage value of services traded (machine value is not applicable) and have both (all) farmers involved report such values to the Ohio Bureau of Workers' Compensation when reporting payroll. Everyone will then be covered.

### Independent Contractors

Generally, workers' compensation insurance does not cover employees hired through a contractor. However the employer could be liable for the cost of injuries to employees of an independent contractor working for the employer, if that contractor does not provide workers' compensation coverage.

To avoid such problems, any farm manager should request a copy of an independent contractor's Certificate

# Workers' Compensation

of Premium Payment and check the dates of coverage. The farm manager (employer) should keep a copy of the certificate on file to be certain that responsibility for an accident to an independent contractor's employee does not fall upon the farm manager.

A contract may be signed between the farm manager and the independent contractor reflecting the agreed upon independent contractor relationship. Here is a sample contract:

On this \_\_\_\_ day of \_\_\_\_, 19 \_\_\_\_, it is agreed by and between \_\_\_\_\_, the employer, and \_\_\_\_\_, the independent contractor, that the work to be done and identified below is to be performed under an independent contractor relationship. The independent contractor agrees that any and all of his/her current and future employees are currently and will continue to be covered by workers' compensation. The independent contractor agrees to indemnify the employer for all costs he/she might incur for work related injuries, deaths, and occupational diseases which result to the independent contractor or his/her employees during the performance of the employment contract.

The work to be done under this contract is:

\_\_\_\_\_.

|              |                        |
|--------------|------------------------|
| _____        | _____                  |
| Farm Manager | Independent Contractor |
|              | _____                  |
|              | Taxpayer ID Number     |
|              | _____                  |
|              | Address                |

A signed contract does not necessarily mean that an independent contractor status exists. See the independent contractor versus employee section of the Handbook for rules to determine if an independent contractor relationship exists.

## Family Members

Members of a family may be considered employees, and they should be covered by workers' compensation in every instance where there is an employee/employer relationship for business related work.

Children should be covered, as well as spouses and related adults. Family health insurance policies may not extend to work related injuries, deaths, and diseases.

## Family Farm Corporation

Officers of a family farm corporation are not considered employees for purposes of reporting payroll and assessing premiums. These officers will be covered only if the employer (the corporation) makes separate application for coverage by filing a Form U-43 with the Ohio Bureau of Workers' Compensation, identifying by name all officers to be covered.

- For purposes of workers' compensation, a family farm corporation meets the following criteria:
1. It must be founded for the purpose of farming, for the production of animal or plant products intended for consumption by human beings or animals (excluding nurseries and flower-production enterprises)
  2. A family farm corporation must consist of a majority of "shareholders" who are related within the fourth degree of kinship, or spouses of such persons (fourth degree of kinship includes sibling, parent, child, grandparent, great grandparent, great-great grandparent, aunt, uncle, great aunt, great uncle or first cousin)
  3. No shareholder may be a corporation
  4. At least one of the related persons within the corporation must reside upon or actively operate the farm.

When requesting coverage for the officers of a family farm corporation, the employer must provide a detailed description of the officers' duties. The Bureau will assign appropriate job classifications to the officers on the basis of the duties described. For 1991, officers must report their salaries and other remuneration to a maximum of \$700 per week, \$18,200 per six-month payroll-reporting period, and not less than a minimum of \$100 per week, or \$2,600 per six month payroll period.

## Sole Proprietorships and Partnerships

Farmers organized as a sole proprietorship or partnership may elect to be covered by workers' compensation. This election is made by completing Form C-116. The election includes identifying the level of pay

which may range between \$100 per week and \$700 per week. This election does not apply to family members of a sole proprietor or partner. Family members who are employees must be covered.

## Employer Provisions

### Signing Up for Coverage

To apply for workers' compensation coverage, the employer should complete an application, Form U-3, and forward it to: **Ohio Bureau of Workers' Compensation Corporate Processing Department, P.O. Box 15698, Columbus, OH 43215-0698**. The farmer should describe the nature of the farming operation in detail, since there are several farming classifications. The Bureau will assign specific job classifications.

If an employer/farmer thinks the farming operation has been improperly classified for the types of work done on the farm, the employer/farmer may request a re-evaluation from the Bureau's Underwriting Section. If employees perform different kinds of farm work, the employer can "segregate" the payroll so that some of the employees can be covered at lower premium rates than others.

An employer's workers' compensation insurance coverage becomes effective as soon as the Bureau receives the U-3 application, along with a check for \$10. This is the initial payment of the employer's premium security deposit. The total amount of the premium security deposit is 30 percent of the employer's eight-month payroll multiplied by the employer's premium rate. The minimum deposit is \$10 and the maximum deposit is \$1,000. All checks should be made payable to the Ohio Bureau of Workers' Compensation.

The premium security deposit does not apply toward any payroll premium due. The deposit is returned when coverage is no longer needed.

### Calculating Premiums

The premium is based on the size of the employer's payroll and the risk to which employees are exposed. To estimate the premium for any six-month period, the employer should: 1) find the current rates for the job classifications applicable to the farming operation (these are prepared by the Ohio Bureau of Workers' Compensation), 2) estimate payroll for the six-month period; and 3) multiply the appropriate rate by each \$100 of payroll.

The payroll for a six-month period includes the entire remuneration given to an employee. Wages, bonuses, commissions, and the fair market value of board, lodging, housing, food supplies, or other goods and merchandise provided must be included in the total value of the payroll.

The rate for each farming classification is based on records of frequency and severity of accidents experienced by all farm workers in Ohio doing similar work. Premium rates are revised each July 1 according to any changes in accident statistics.

There have been numerous job classifications established by the Bureau of Workers' Compensation. Each job classification has its own premium rate which is reviewed and adjusted annually. There are two classifications for farm labor, 0004 for hand labor and 0006 for general farm labor. Most farm labor fits within the 0006 classification. The base rates per \$100 of wages for these two classifications for the period from July 1992 through June 1993 are \$5.72 for the 0004 classification and \$10.62 for the 0006 classification. A farmer could also have employees in other job classifications; i.e., secretarial work.

In addition to premium base rates, everyone who carries workers' compensation is assessed a few cents per \$100 of payroll for administrative costs; for the Disabled Workers' Relief Fund, a special program for certain permanently and total disabled workers; and for the Disabled Workers' Relief Fund II, a supplemental fund. The current assessment rates for these per \$100 of wages are \$0.220 for both classifications for administrative costs with a minimum of \$3.00 every six months, \$0.0010 for both classifications for the Disabled Workers' Relief Fund, and \$0.236 for the 0004 classification and \$0.418 for the 0006 classification for the Disabled Workers' Relief Fund II.

Premiums are due every six months, and the employer may report "Zero Payroll" for any reporting period during which the employer has no employees. The employer pays only a minimum administrative assessment of three dollars, and the employer can keep active coverage for those periods when the employer again has employees.

Payments are due each January 31 and July 31, but can be paid as late as February 28 and August 31. The payments are mailed with a completed payroll reporting form to the Ohio Bureau of Workers' Compensation.

# Workers' Compensation

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## Group Experience Rating

The group rating plan allows employers that are substantially similar to group together to potentially achieve lower premium rates that they cannot acquire as individual employers. In order to be eligible for group rating, both the group and the individual employers must meet certain criteria. The criteria for group experience rating are:

1. all of the employers within the group are members of an organization that has been in existence for at least two years prior to the date of application for group coverage
2. the organization was formed for purposes other than that of obtaining group coverage
3. the employers' business in the organization is substantially similar such that the risks which are grouped are substantially homogeneous
4. the group of employers must consist of at least one hundred members or the aggregate workers' compensation premiums of the members are expected to exceed \$150,000 during the coverage period
5. the formation and operation of the group program in the organization must substantially improve accident prevention and claims handling for the employers in the group
6. each employer seeking to enroll in a group for workers' compensation coverage has an industrial insurance account in good standing with the Bureau of Workers' Compensation with no outstanding premiums, penalties, or assessments due at the time of application

## Signing-up for Group Experience Rating

The group rating plan is an annual plan for rating of a policy year. Groups must re-apply each year to the Bureau of Workers' Compensation, Actuarial Section by December 31. The payroll and loss history experience of an individual member will be retained within the groups experience rating calculations for three policy years subsequent to the member leaving the group.

## Employee Provisions

Workers' compensation pays for all necessary medical care that directly pertains to work-related injuries or occupational diseases. It also provides compensation to a worker whose job-related disability lasts

longer than seven days. If someone is killed on the job or dies from a work-related injury, workers' compensation provides a moderate funeral expense allowance and pays compensation to qualifying dependents.

The maximum disability compensation allowed by law is an amount equal to the statewide average weekly wage for the year in which the worker is injured.

A completed workers' compensation claim application must be filed with the Bureau before any benefits can be paid. It is technically the responsibility of the employee to file any claim. Employers are required to keep a supply of workers' compensation claim application forms for use by employees. Forms may be obtained from any Bureau of Workers' Compensation district office.

If an employee is injured while on the job, the injury should be reported immediately to the employer. The employee should see a doctor and inform the doctor that the injury is the result of a job-related accident. A claim form should be secured from the employer, completed and filed with the Bureau of Workers' Compensation for payment.

Claims should be filed as soon as possible so important facts and/or witnesses can be easily remembered. All claims must be filed within two years of the work-related injury or death.

Compensation disability benefits cannot be paid if the injured employee is drawing sick-leave pay. The employee may choose to take sick-leave or workers' compensation pay, but not both. However, with employer approval, the injured employee may take workers' compensation payments as well as vacation pay.

Detailed compensation, benefits and claim information for employees is available from any of the Workers' Compensation offices listed in this section. The Ohio Bureau of Workers' Compensation also has a toll-free, statewide telephone number which can be accessed by either employers or employees with specific questions about workers' compensation or the status of a claim. That number is: 1-800-282-9536.

## Responsible Agency

This is an Ohio law administered by the Ohio Bureau of Workers' Compensation. For further information contact the district office of the Bureau of Workers' Compensation in your area.

**Akron**

Ocasek Government Building  
161 S. High St., Suite 300  
Akron, Ohio 44308-1617  
Telephone (216) 379-3111  
Counties: Summit, Portage, Medina

**Bridgeport**

56319 National Road  
Bridgeport, Ohio 43912-0388  
Telephone (614) 635-1163  
Counties: Belmont, Monroe, Jefferson, Harrison

**Canton**

4895 Dressler Rd., N.W.  
P.O. Box 35545  
Canton, Ohio 44735-5545  
Telephone (216) 493-2700  
Counties: Stark, Wayne, Holmes, Tuscarawas, Carroll

**Cincinnati**

125 E. Court St., 8th Floor  
Cincinnati, Ohio 45202-2196  
Telephone (513) 852-3341  
Counties: Hamilton, Clermont, Brown

**Cleveland**

615 Superior Ave. W, 6th Floor  
State Office Tower  
Cleveland, Ohio 44113-1889  
Telephone (216) 622-3050  
Counties: Cuyahoga, Lorain, Lake, Geauga

**Lima**

71 Town Square, P.O. Box 780  
Lima, Ohio 45802-0780  
Telephone (419) 227-3127  
Counties: Allen, Paulding, Putnam, Van West,  
Auglaize, Mercer, Hardin, Hancock

**Logan**

1225 W. Hunter St.  
Logan, Ohio 43138-0630  
Telephone (614) 385-5607  
Counties: Athens, Meigs, Gallia, Hocking, Vinton,  
Jackson, Fairfield

**Mansfield**

2281 Village Mall, PO Box 8051  
Mansfield, Ohio 44906  
Telephone (419) 747-4090  
Counties: Richland, Ashland, Erie, Huron, Knox,  
Morrow, Crawford, Marion, Seneca, Wyandot

**Portsmouth**

724 Findlay St.  
Portsmouth, Ohio 45662-4195  
Telephone (614) 353-2187  
Counties: Scioto, Highland, Adams, Lawrence, Pike

**Springfield**

1117 E. Home Road, PO Box 1467  
Springfield, Ohio 45501-1467  
Telephone (513) 399-8621  
Counties: Logan, Champaign, Clark, Greene

**Columbus**

106 N. High St.  
Columbus, Ohio 43266-0524  
Telephone (614) 466-6446  
Counties: Franklin, Delaware, Union, Licking,  
Pickaway, Ross, Fayette

**Dayton**

7691 Poe Ave., P.O. Box 14666  
Dayton, Ohio 45414-4666  
Telephone (513) 898-2866  
Counties: Montgomery, Darke, Miami, Shelby

**Hamilton**

222 High St., 4th Floor  
Hamilton, Ohio 45011-2817  
Telephone (513) 868-3400  
Counties: Butler, Warren, Clinton

**Toledo**

One Government Center  
Suite 1236, P.O. Box 794  
Toledo, Ohio 43695-0794  
Telephone (419) 245-2700  
Counties: Lucas, Madison, Ottawa, Wood, Fulton,  
Henry, Defiance, Sandusky, Williams

**Youngstown**

100 Westchester Dr., Suite 20  
P.O. Box 4294  
Youngstown, Ohio 44515-0294  
Telephone (216) 793-3977  
Counties: Mahoning, Preble, Trumbull, Columbiana,  
Ashtabula

**Zanesville**

601 North Underwood  
Suite A, P.O. Box 150  
Zanesville, Ohio 43702-0150  
Telephone (614) 452-3629  
Counties: Muskingum, Guernsey, Perry, Morgan,  
Washington, Noble, Coshocton

### References

*Workers' Compensation on the Farm*, Publication PA340, Ohio Bureau of Workers' Compensation, 1986.

*Your Workers' Compensation Claim*, Publication PA010, Ohio Bureau of Workers' Compensation, 1986.

*Ohio State Workers' Compensation Insurance Fund Manual Rating Rules, Premium Rates And Index of Classifications*, Ohio Bureau of Workers' Compensation, 1991

*The State Fund Guide to Workers' Compensation*, Publication PA200, Ohio Bureau of Workers' Compensation, 1991.

*Ohio Industrial Commission and Bureau of Workers Compensation 1991 Laws*, Ohio Bureau of Workers' Compensation, 1991.

# Unemployment Insurance

## Objective

The objective of unemployment insurance is to temporarily replace part (usually about 50 percent) of a person's income loss due to unemployment. These benefits are limited to persons temporarily out of work through no fault of their own.

## Coverage

Some agricultural employment is covered by unemployment insurance. Coverage includes those farm employers who during the current or previous calendar year: a) employed 10 or more workers in each of 20 or more weeks *or* b) paid \$20,000 or more cash wages in any calendar quarter of the current or preceding calendar year. The coverage rules are the same for state and federal laws.

A person employed for any portion of any day of a week is counted as one of the 10 workers in a week necessary for employer coverage. To illustrate, 10 people employed for one hour on a Monday would cause the week to be counted as one of the 20 necessary weeks. It normally takes at least 10 individuals all employed on the same day to have the week count as one of the weeks toward the 20. However, this is modified when the employer has the same individuals employed on a continuing part-time relationship. For example, if five individuals work regularly two and one-half days per week and another five individuals work regularly the other two and one-half days, the employer is considered to have 10 workers in employment during the week. If the farm operator has only hourly workers with no continuing relationship, there would have to be at least 10 of these workers in one day before the week would be counted.

A calendar quarter is three calendar months. The first quarter begins with the week including January 1, the second quarter begins with the week including April 1, etc. Cash wages include all wages paid in cash including bonuses, commissions, and incentive payments.

Cash wages do not include the cash value of housing, fuel, use of a vehicle, agricultural products, or any other type of compensation which is not cash.

Note: Coverage of non-farm employers includes those employers who have at least one employee in covered employment for some portion of a day in each of 20 different weeks within the current or preceding calendar year; or paid wages of \$1500 or more to employees in any calendar quarter during the current or preceding calendar year.

## Seasonal Employees

An employer whose majority of workers are employed for 40 weeks or less per year on a regular basis may request to be classified as a seasonal employer. If the employer is granted the classification of seasonal employer, the employer still has to pay unemployment insurance premiums. The premiums will likely be lower with the seasonal employer status, but employees will be eligible to receive less benefits.

There is a question of whether an employer who has acquired the status of seasonal employer can change back to being a regular employer. Once a farmer/employer is classified as a seasonal employer, they may be required to retain that status.

Employers, who would like to be classified as seasonal employers, should write a letter of request to:

Contributions Department  
Ohio Bureau of Employment Services  
145 S. Front Street  
Columbus, OH 43216

## Exemptions for Relatives and Minors

A sole proprietor's parents, spouse, and own children under the age of 18 are excluded from coverage. These persons are not counted in the number of employees and weeks of employment tests for employer coverage. Wages for these persons are not included in the



# Unemployment Insurance

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\$20,000 quarterly payroll test for employer coverage. Payroll tax contributions are not made on such wages. This employment does not qualify them for any unemployment insurance benefits.

All employees of partnerships and corporations are covered by unemployment insurance. In a general partnership the partners are considered to be self-employed and not employees. In the case of a corporation, the owners are employees. This characteristic of corporations often requires the unemployment insurance to be paid because the owner's salaries are included in the \$20,000 test.

There are no exemptions for minors other than minor children of the employer. Minors are included in the test for employer coverage and their wages are included in the taxable payroll. They are not excluded from benefits solely on the basis of age.

## Exemption for Independent Contractors

Ohio law (Ohio Revised Code §4141.01(B)(1)) permits an individual determined to be an independent contractor under contract to perform a special service for an employer, to be excluded from covered employment. To be excluded, it must be established by the employer that the:

1. contractor is free from direction and control over the service being performed;
2. service is not in the usual course of the business for which it is being performed; and
3. contractor is customarily engaged in an independently established trade, occupation, profession or business.

## Exemption for Alien Farm Worker Wages

The federal unemployment tax does not apply to wages paid to an alien who was admitted to the United States to perform farm labor before January 1, 1993 under a contract to the employer and who returns to his or her own country when the contract is completed. However, wages paid to an alien worker are counted in figuring whether an employer is subject to the federal unemployment tax for other farm workers' under the two coverage tests discussed at the beginning of this section.

## Elective Coverage

Employers who employ individuals whose services are excluded from covered employment may, under certain conditions, elect to cover those services. Written election must be filed with and approved by the Administrator, Ohio Bureau of Employment Services.

## Duration of Liability

An employer's liability is determined on a calendar year basis and is effective with the beginning of the calendar year in which the employer first becomes liable. A farm employer who meets the coverage criteria of having 10 or more workers in 20 or more calendar weeks or having a \$20,000 quarterly payroll at any time during the calendar year is subject to coverage during the entire calendar year and for each calendar year thereafter. During the entire period of liability, the employer must continue to file quarterly reports, even if no taxable wages are paid.

## Crew Leaders

It is possible for a crew leader (farm labor contractor) rather than the farm operator to be the employer liable for paying the unemployment tax, maintaining the required records and submitting the required reports. The crew leader is the liable employer if the crew leader:

1. furnishes individuals to perform services in agricultural labor and pays the individuals directly, or on the behalf of the other employer or farm operator; and
2. holds a valid certificate of registration under the Migrant and Seasonal Worker Protection Act (see section of this handbook on Migrant and Seasonal Worker Protection Act),  
or  
provides tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment which substantially all members of the crew operate and maintain, and
3. pays \$20,000 or more in cash remuneration for agricultural labor in a calendar quarter within the current or preceding year *or* has in employment 10 or more farm workers in 20 or more weeks in the current or any preceding calendar year.

Conditions (1), (3), and either part of (2) must all be met for the crew leader to be the liable employer. The crew leader is not the liable employer if the crew leader has a written agreement with the other employer or farm operator which states the agricultural worker is in the employ of the other employer or farm operator.

If a crew leader operates in more than one state, the payroll or number of employees test in (3) could have been met in one or more other states.

### Employer Provisions

Unemployment insurance benefits to unemployed workers are financed by an employer payroll tax. Only those employers meeting the coverage characteristics must pay the tax. Covered employers are required to make payroll tax contributions on behalf of workers.

#### Employer Contribution Rates

The employer contribution rate varies from 0.8 percent to 7.8 percent of a taxable wage base of \$8,000; i.e., the first \$8,000 paid each worker each year. Most of the variation in the state contribution rate is due to individual employer experience ratings. Employers who seldom lay off workers will likely have a low tax rate while those who often lay off workers have a tax rate near or at the maximum of 7.8 percent.

The employer has the responsibility to report liability as soon as there is one or more employees in covered employment. The Bureau will determine the employer's tax liability on the basis of information supplied by the employer.

Employers not previously subject to the unemployment insurance payroll tax are taxed at a standard rate of 4.5 percent of the taxable wage base of \$8,000 until their experience rating is established. For example, farm employers first covered January 1, 1992 would continue to be taxed at the standard rate until January 1, 1994.

#### Tax Deposits

The federal tax (FUTA) is deposited with an authorized commercial bank or a federal reserve bank. If an employer's liability for FUTA taxes exceeds \$100 for any calendar quarter and any preceding quarter, the tax

must be deposited within one month following the close of the quarter.

The state tax is deposited with the Ohio Bureau of Employment Services. Covered employers must make a quarterly report even if no tax payment is due. The quarterly reports must be completed and payment made within one month after the close of the quarter; e.g., if the quarter ends March 31, the quarterly report and payment must be made by April 30.

#### Reporting

The Ohio Bureau of Employment Services (OBES) is the agency responsible for data collection. OBES collects wage data for all employees on a quarterly basis. Employee information that must be reported quarterly includes: employee name, social security account number, wages paid, and the number of weeks during the quarter for which the employee was paid.

A list of Ohio Bureau of Employment Services compliance offices has been included at the end of this section of the Handbook.

Separate penalties apply for failure to file wage reports and/or pay contributions when due or upon demand. Even if the employer cannot pay the contributions on or before the due date, the employer should still file the wage and contribution reports.

Effective April 1, 1987, failure to file quarterly reports when due results in a penalty of 10 percent of the contributions due with a minimum of \$25 and a maximum of \$250 per report. Any contribution not paid when due is charged interest at 10 percent per year.

#### Record Keeping

Ohio law requires each covered and non-covered employer to keep an accurate employment record for all employees, including hours worked and wages paid. The employment records must be preserved and maintained for a period of five years after the calendar year in which earnings are paid to employees.

The employment and payroll records should contain the following information:

1. employee name and address
2. social security account number
3. amount of gross earnings for each pay period before deductions for any purpose

# Unemployment Insurance

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4. date of payment and the amount of wages paid with respect to each separate pay period
5. the date(s) on which services were performed for the employer
6. the date(s) hired or rehired or returned to work after a temporary layoff
7. the date on which services were terminated and the cause of such termination
8. the time lost due to being unavailable for work
9. the type of the services performed by the employee
10. division between covered and excluded employment if both types of work were performed during the same pay period
11. the cash value of any remuneration paid instead of or in addition to cash wages

When employees are separated from employment, the employer must furnish identification notices to the employees. These notices must include the employer's name, business address, and unemployment compensation account number. This provides the employee with a record of employers in the event an application for benefits is filed.

Upon request, the employer must also provide wage and separation information to OBES for separated employees which completely describes the circumstances surrounding the separation. This information helps OBES determine whether the employee qualifies for unemployment insurance benefits.

## Employee Provisions

To receive unemployment insurance benefits, an unemployed Ohio farm worker has to meet certain requirements. A person becomes eligible for unemployment compensation when the person has worked in covered agricultural or non-agricultural employment long enough to meet the basic requirements of the law. The basic requirements are the person must have worked 20 qualifying weeks in the base period and an average weekly wage of at least 37 times the Ohio minimum wage. A qualifying week is a week in which some wages were earned. In addition, the present unemployment must be involuntary or not the fault of the person who is unemployed. The unemployed person must be able to work, available for work, and actively seeking work, but unable to obtain suitable work.

If these basic requirements are met, benefit rights are established and benefits can be paid one week at a time to partially replace the wages lost during the period of unemployment. Benefit rights are determined by the number of weeks worked and the amount of gross wages a claimant earned in covered employment during the base period. Base period means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year. Only wages earned in covered employment in the base period can be used in determining benefit rights.

The amount of wages earned and the amount of employment in the base period are the principal factors used to determine the following:

1. The allowance of an application
2. The amount that may be paid weekly
3. The amount of total benefits that may be paid

Once benefit rights are established, they are effective for the next fifty-two consecutive weeks. This is called the benefit year. The benefit rights established by the allowed application are in effect throughout the benefit year.

A person who quits a job without just cause is disqualified from unemployment insurance benefits. However, some reasons for quitting a job do not disqualify a person from benefits. These reasons include: work is injurious to the person's health; person is physically unable to do the work (medical statement may be required); employer fails to meet contract of hire in regard to wages, hours, or other conditions; employer fails to provide proper safety measures as required by law; or person is requested to perform work which violates or is contrary to accepted moral or legal standards.

A person who is discharged by an employer with just cause is disqualified from unemployment insurance benefits. To be disqualifying, it must be established that the employer had just cause for the discharge and that the cause was connected with the job. A worker may not be disqualified for actions away from the job unless such actions affected the work or it can be proved that the actions were detrimental to the employer's business. Examples of discharges with just cause are the violation of established company rules, such as absenteeism or habitual tardiness, use of intoxicants on the job, failure to maintain equipment or failure to observe safety

regulations; insubordination, or refusal to perform work as directed by the supervisor; attitude detrimental to the employer or its business; neglect of duty, or performing work in a negligent manner; failure to pay union dues or join a labor union when a labor-management contract requires it, or other violation of union rules.

Unemployed migrant farm workers who have returned to their home states may file claims at their local employment services offices in their home state.

The weekly benefit amount is basically 50 percent of the average weekly earnings while employed. However, there are maximum weekly benefit amounts. In 1991, the maximum weekly benefits were: 0 dependents, \$196; 1 or 2 dependents, \$279; and 3 or more dependents, \$291. During periods of high unemployment, the maximum period of time during which an unemployed person may receive benefits may be extended beyond 26 weeks.

## Responsible Agency

In Ohio, the unemployment insurance program is administered by the Ohio Bureau of Employment Services. The unemployment insurance programs in each

of the states are controlled by the Federal Unemployment Tax Act, under which the Secretary of Labor must approve all state laws and their operation. Local Bureau of Employment Services offices located throughout the state receive and process unemployment insurance claims. The nearest Ohio Bureau of Employment Services office should be contacted for detailed information concerning the most current provisions of the unemployment insurance program. (A list of Ohio's local benefits claims offices has been included at the end of this section of the handbook.)

## References

*Ohio Unemployment Compensation Guide*, Ohio Bureau of Employment Services, 1988.

*1991 Ohio Unemployment Compensation Laws and Rules, Annotated*, Banks-Baldwin Law Publishing Company, 1991.

*Understanding Your Unemployment Benefits*, P-1601 (R 1-91) Ohio Bureau of Employment Services, 1991

*Farmer's Tax Guide*, 1991 Edition, Internal Revenue Service Publication 225, October 1991.

### Ohio Bureau of Employment Services Offices

| City             | Address   | Telephone    |
|------------------|---|--------------|
| Akron            | 150 E. Market St., 44308                                | 216-434-2141 |
| Ashtabula        | 2211 Lake Ave., (P.O. Box 630), 44004                   | 216-922-2132 |
| Cambridge        | 401 Wheeling Ave., 43752                                | 614-432-6355 |
| Canton           | 1100 Cleveland Ave. N.W., 44702                         | 216-454-5111 |
| Chillicothe      | 38 Marietta Road, P.O. Box 9188, 45601                  | 614-775-3322 |
| Cincinnati       | 1916 Central Parkway, 45214                             | 513-852-3126 |
| Cleveland (East) | 14801 Broadway, Maple Heights, 44137                    | 216-662-6870 |
| Cleveland (West) | 5739 Chevrolet Blvd. Parma, 44130                       | 216-622-3505 |
| Columbus         | 899 E. Broad St., 43205                                 | 614-466-1817 |
| Dayton           | Col-Don Building, 3rd Floor,<br>627 Salem Avenue, 45406 | 513-276-5095 |
| Defiance         | 1931 E. 2nd St., McDonald Plaza, 43512                  | 419-782-6050 |
| Findlay          | 1644 Tiffin Rd., 45839                                  | 419-423-2980 |
| Hamilton         | 130 Main St., 45012                                     | 513-867-8484 |
| Lancaster        | 315 N. Columbus St., 43130                              | 614-653-4262 |
| Lebanon          | 916 Columbus Ave., 45036                                | 513-932-5981 |
| Lima             | 799 N. Main St., 45802                                  | 419-223-2010 |
| Lorain           | 201 W. Erie Ave., 44052                                 | 216-244-1089 |
| Mansfield        | 88 W. 3rd St., 44901                                    | 419-524-4511 |
| Marietta         | 217 3rd St., P.O. Box 358, 45750                        | 614-373-7022 |
| Marion           | 347 N. Main St., 43302                                  | 614-382-1115 |
| Middletown       | 1236-40 Central Ave., 45042                             | 513-422-4567 |
| Newark           | 144 W. Main St., P.O. Box 670, 43055                    | 614-345-3402 |
| Painesville      | 1314 Mentor Ave., P.O. Box 350, 44077                   | 216-352-6106 |
| Portsmouth       | 1005 4th St., P.O. Box 29, 45662                        | 614-354-7771 |
| Sandusky         | 165 Jackson St., P.O. Box 930, 44870                    | 419-625-5732 |
| St. Clairsville  | Ohio Valley Shopping Mall,<br>PO Box 77, 43950          | 614-695-4431 |
| Springfield      | 239 E. Columbia St., P.O. Box 1527, 45501               | 513-325-7326 |
| Steubenville     | 248 N. 4th St., P.O. Box 340, 43952                     | 614-283-4165 |
| Toledo           | 1814 Madison Ave., P.O. Box 954, 44501                  | 419-245-2996 |
| Youngstown       | 2026 South Ave., P.O. Box 1198, 44501                   | 216-744-4216 |
| Zanesville       | 711 E. Main St., 43701                                  | 614-452-5491 |

# OSHA

## The Occupational Safety and Health Act of 1970

### Workplace Safety

#### Objectives

The purpose of the Act is to assure, where possible, every working person in the nation safe and healthful working conditions and to preserve our human resources. The law is administered by the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor.

#### Coverage

The provisions of the law apply to *every* employer in any state and territory of the United States who is engaged in any business that affects interstate commerce. Agriculture is included.

The following are not covered under the Act:

1. self-employed persons
2. farms at which *only* immediate members of the farm employer's family are employed
3. workplaces already protected by other federal agencies under other federal laws

But even when another federal agency is authorized to regulate safety and health working conditions in a particular industry, if it does not do so in specific areas, then OSHA standards apply.

#### Inspections

The Occupational Safety and Health Administration (OSHA) is authorized to conduct workplace inspections. Every establishment covered by the Act is subject to inspection by OSHA compliance safety and health officers.

With few exceptions, inspections are conducted without advance notice. There are special circumstances under which OSHA may give the employer notice of 24 hours or less. The special circumstances include:

1. imminent danger situations that require correction as soon as possible
2. inspections that take place after regular business hours, or that require special preparation
3. cases where notice is required to assure that the employer and employee representatives or other personnel will be present
4. situations in which the OSHA area director determines that advance notice would produce a more thorough or effective inspection

If an employer refuses to admit an OSHA compliance officer, or if an employer attempts to interfere with the inspection, the Act permits appropriate legal action.

Based on a 1978 Supreme Court ruling (*Marshall v. Barlow's, Inc.*, 436 U.S. 307, U.S. Supreme Ct., (1978)), OSHA may not conduct warrantless inspections without an employer's consent. It may, however, inspect after acquiring a judicially authorized search warrant. The Court indicated that a majority of employers can be expected, in normal course, to consent to inspection without warrant.

### Employer Provisions

#### Agricultural Standards

**SMV Emblem**—This standard requires the use of the SMV emblem in conjunction with employee assignments where farm machinery classified as slow moving vehicles (25 m.p.h. or less) is involved. Ohio highway law already clarifies the use of the SMV emblem. Those farmers using *approved* SMV emblems in the manner

specified by Ohio law will be in compliance with the federal law also.

**Anhydrous Ammonia**—This is largely an equipment standard. Dealers supply most of the anhydrous ammonia application equipment, and farmers have the responsibility to see that compliance standards are met when their employees are using application equipment. Farmers should ask suppliers to verify that their equipment meets OSHA standards. A supplier, who provides application equipment to farmers, may be supplying equipment that does not meet OSHA standards. Equipment owned by farmers should meet OSHA standards before employees use it. If the equipment does not meet OSHA standards, the farm employer must bring the equipment up to the standard or restrict use to the farm operator. Key points to consider are the quality and condition of hoses and valves.

Personal protective equipment must be used by employees who handle anhydrous ammonia. Such equipment includes approved gloves, goggles, five gallons of water mounted on the equipment, and a squeeze bottle for personal use. Employees should also be trained in safe operating practices and in the proper action to take in the event of emergencies.

**Temporary Labor Camps**—This standard covers environmental aspects of temporary housing for employees and affects mostly those farmers dealing with seasonal labor for specialized crops. (See the Migrant Labor Camp Regulations section of this Handbook.)

**Field Sanitation**—This standard requires employers of 11 or more hand laborers in the field to provide toilets, potable drinking water and hand washing facilities in the field without cost to the employee. Employers must notify field workers of the location of such facilities and water. Employees must be given opportunities to use such facilities during the day.

Potable water is defined as water that meets state and local standards for drinking. The specific facilities required are as follows:

Drinking water must be readily accessible, suitably cool, and be available in sufficient amounts to meet the needs of the employees. The water is to be dispensed in single-use drinking cups or by a fountain. Common drinking cups or dippers are prohibited.

Toilets may be fixed or portable facilities for the purpose of collection and containment of products

of elimination (includes biological, chemical, flush, combustion toilets and sanitary privies). Toilet paper is to be provided. Toilets must be adequately ventilated and screened, have self closing doors that can be closed and latched from the inside, and constructed to insure privacy.

Hand washing facilities are to be either a basin, container, or outlet with an adequate supply of potable water, soap and single-use towels.

Toilets and hand washing facilities are to be provided at the rate of one facility for each 20 employees. If an employer has 21 field employees, the employer must provide two toilets and two hand washing facilities. These facilities are to be located within one-fourth mile of each hand laborer's place of work in the field.

All facilities are to be maintained in accordance with appropriate public health sanitation practices. The facilities must be operational and in a clean and sanitary condition.

Employers are to inform employees of the importance of good hygiene practices to minimize exposure to in the field to hazards of heat, communicable disease, retention of urine and agrochemical residues. Employers should instruct employees to:

1. use water and facilities for drinking, hand washing and elimination
2. drink water frequently on hot days
3. urinate as frequently as necessary
4. wash hands both before and after using the toilet
5. wash hands before eating and smoking

Toilets and hand washing facilities are not required for employees who perform field work for a period of three hours or less (including transportation to and from the field) during the day.

**Pulpwood Logging**—This standard is directed toward those who hire employees to work specifically in this type of work. The standard covers both protective equipment and working practices. The standard is both detailed and specific to this industry. Employers involved in pulpwood logging should secure the appropriate OSHA regulations and interpret them for their specific situation.

**Rollover Protective Structures (ROPS) for Farm Tractors**—This federal standard requires that all employee operated tractors of over 20 horsepower manufactured after October 25, 1976 be equipped with a



seat belt and cab or protective frame meeting crush resistance requirements specified in the standard. Frames and cabs that meet this standard are equipped with a label stating they meet OSHA regulations. Employees must use seat belts when operating a tractor equipped with such frames or cabs. Selected "Low Profile" tractors for use in orchards and other special situations are exempt from the ROPS standard only if used exclusively in low profile situations.

**Required Employee Training - ROPS**—Employees who operate any farm tractor must be instructed on operation practices listed in the standard for employee instruction-training. Points specifically listed are:

1. Securely fasten the seat belt if the tractor has a Rollover Protective Structure (ROPS).
2. Where possible, avoid operating the tractor near ditches, embankments, and holes.
3. Reduce speed when turning, crossing slopes, and on rough, slick or muddy surfaces.
4. Stay off slopes too steep for safe operation.
5. Watch where the tractor is going, especially at row ends, on roads, and around trees.
6. Do not permit others to ride on the tractor.
7. Operate the tractor smoothly. Avoid jerky turns, starts, or stops.
8. Hitch only to the drawbar and hitch points recommended by tractor manufacturers.
9. When the tractor is stopped, set the brakes securely and use park lock if available.

Employees must be informed of any other operating practices dictated by the work environment.

**Machinery Guarding and Shielding**—This standard is to protect employees from hazards associated with moving farm machinery parts. The standard includes farm field equipment such as tractors and field implements and self-propelled equipment in addition to farmstead equipment normally considered to be stationary. The stationary equipment includes augers, elevators, self-unloading equipment, and bunker feeders. The examples cited in the preceding statements are only a few of the pieces of equipment covered by the standard. It is safe to assume that any piece of farmstead or field equipment with moving parts, stationary or otherwise, is included.

A simplified language version of this standard has been developed due to the complexity of the language

and broad coverage of equipment involved.

A brief summary of this standard on guarding and shielding follows:

—All power take-off drives, regardless of the date of manufacture, must be guarded.

—Farmstead and field equipment manufactured after October 25, 1976 is expected to have a variety of shielding and guarding devices as standard equipment. Equipment manufactured prior to that date must have selected decals or warning signs to warn employees of dangers not covered by shields and guards in the newer equipment.

—Electrically powered farmstead equipment is required to meet specific disconnect and lockout requirements as a precaution against equipment starting up while an employee is in the process of servicing, adjusting, and doing other maintenance jobs.

**Required Employee Training—Guarding and Shielding** - At the time of initial assignment and at least annually thereafter, the employer shall instruct every employee in the safe *operation* and *servicing* of all covered equipment with which the employee is or will be involved, including at least the following safe operating practices:

1. Keep all guards in place when the machine is in operation.
2. Permit no riders on farm field equipment other than persons required for instruction or assistance in machine operation.
3. Stop the engine, disconnect the power source, and wait for all machine movement to stop before servicing, adjusting, cleaning, or unclogging the equipment, except where the machine must be running to be properly serviced or maintained, in which case the employer shall instruct employees as to all steps and procedures which are necessary to safely service or maintain the equipment.
4. Make sure everyone is clear of machinery before starting the engine, engaging power, or operating the machine.
5. Lock out electrical power before performing maintenance or service on farmstead equipment.

### Additional Training Recommendations

The employer will benefit from thorough and complete training of employees in safe operation,

maintenance, and servicing of all equipment. The ROPS and guarding and shielding standards specifically indicate the minimum information to be communicated. Farmer employers should utilize additional training resource materials available in county, district, or state Extension offices.

In addition, OSHA has several offices within the state which are full-service centers that offer a variety of informational services such as availability of speakers for meetings, publications, audiovisual aids on workplace hazards, and technical advice. (See the listing of specific offices at the end of this section of the Handbook.)

The training and documentation method recommended in Ohio is to discuss and demonstrate the safety procedures with the employee, to require the worker to read any related bulletins and leaflets, and finally, to have the employee indicate in writing that the training was received. After watching the employee's work habits, the employer might want to document the fact that the employee was either warned or re-trained on selected points of safety relating to the specific job being performed.

All documentation of this nature should be kept on file for future reference in case of an accident that results in the injury or death of an employee while on the job. The employer has the responsibility of seeing that the employee not only works in a safe manner but also that he uses safety equipment available to him. For example, simply supplying goggles and gloves for ammonia applicators is not enough. The employer has to make sure that this protective equipment is used. If the employer has to remind a worker repeatedly about using such protective equipment, documentation of such warnings could be valuable in the event of an accident.

## Keeping the Employee Informed

Employers are responsible for keeping employees informed about OSHA and about the various safety and health matters with which they are involved. Federal OSHA and states with their own occupational safety and health programs require that each employer post certain materials in a prominent location in the workplace. Materials that must be posted include:

- Job Safety and Health Protection workplace poster (OSHA 2203 or state equivalent) informing

employees of their rights and responsibilities under the Act. Besides displaying the workplace poster, the employer must make copies of the Act and copies of the relevant OSHA rules and regulations available to employees upon request.

- Summaries of petitions for variances from standards or record keeping procedures.

- Copies of all OSHA citations for violations of standards. These must remain posted at or near the location of alleged violations for three days, or until the violations are abated, whichever is longer.

- The summary page from the Log and Summary of Occupational Injuries and Illnesses (OSHA No. 200) must be posted no later than Feb. 1, and must remain in place until March 1. All employees have the right to examine any records kept by their employers regarding exposure to hazardous materials, or the results of medical surveillance.

## Record Keeping Requirements

Employers are required to keep OSHA records of work related accidents, injuries, illnesses and days off the job for job related accidents, injuries and illnesses only if they had 11 or more employees at any one time in the previous calendar year. The record keeping requirements of the Act apply to almost all private sector employers.

Note: Employers in agriculture who have more than one establishment with *combined* employment of 11 or more employees must keep records for each individual establishment.

OSHA record keeping is not complicated. Only two forms must be maintained:

1. The Log and Summary (OSHA NO. 200) - record of injuries and illnesses and notes regarding the extent and outcome of each case. The summary sheet can be used to comply with employer posting requirements.
2. The Supplementary Record (OSHA No. 101) - additional information pertaining to recorded injuries. Other records maintained for workers' compensation, insurance, or other reports may be used to comply with this requirement if these other records contain all of the items required on OSHA No. 101.

All occupational illnesses must be recorded regardless of the severity. An occupational illness is any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. Occupational illnesses include such illnesses or diseases which may be caused by inhalation, absorption, ingestion or direct contact with toxic substances or harmful agents.

All occupational injuries must be recorded if they result in any of the following:

1. death
2. one or more lost workdays
3. restriction of work or motion
4. loss of consciousness
5. transfer to another job
6. medical treatment (other than first aid)

An occupational injury is any injury such as a cut, fracture, sprain or amputation which results from a work related accident or exposure involving a single incident in the work environment.

All employers, regardless of the number of employees, are required to report the following:

1. any on-the-job accident that results in the death of an employee
2. any on-the-job accident that results in the hospitalization of five or more employees

The above two types of on-the-job accidents are to be reported in detail to the nearest OSHA office within 48 hours. The report may be either oral or in writing.

Employers violating posting requirements can be assessed a civil penalty of up to \$7000. Falsifying records, reports or applications can bring a fine of \$10,000 or up to six months in jail, or both.

### **Employer Rights Related to Inspection and Citations**

The Act provides specific rights for employers in relation to inspection of the workplace and possible citations and fines. An employer has the right to request and receive proper identification from an OSHA official in addition to being advised as to the reason for the visit.

OSHA compliance officers carry U.S. Department of Labor credentials bearing a photograph and a serial

number that can be verified by phoning the nearest OSHA office. *Anyone who tries to collect a penalty at the time of inspection, or promotes the sale of a product or service at any time, is not an OSHA compliance officer.*

An inspection may result in the citing of one or more hazards in the workplace that are perceived as being dangerous to employees. In this instance, the inspecting official will immediately discuss the hazards with the employer and also send a written report at a later date by certified mail. Generally there will be a time period in which the employer is expected to correct hazards cited.

Some hazards may be severe to the extent that penalties are involved. If the employer disagrees with a citation and/or penalty, the employer has recourse which includes requesting an informal meeting with OSHA officials. Further steps in contesting a citation can be fully explained by OSHA officials involved.

## **Employee Provisions**

Each employee must comply with the safety and health standards. The employee must obey all the rules, regulations, and orders issued under the terms of the Act that pertain to conduct in the workplace. The employee is not subject to fines for noncompliance as is the employer. The employee is required to participate in training and instruction as it relates to specific job assignments, and to use and maintain personal protective equipment provided.

The Act gives employees the right to seek safety and health on the job without fear of punishment. Employers are not permitted to punish or discriminate against employees who exercise rights such as:

- complaining to an employer, union, OSHA or any other governmental agency about job safety and health standards;
- filing safety or health grievances;
- participating on a workplace safety and health committee or in union activities concerning job safety and health;
- participating in OSHA inspections, conferences, hearing or other OSHA-related activities.

## References

*Code of Federal Regulations*, 29 CFR Ch. XVII, Section 1910.267 (Agricultural Operations), U.S. Government Printing Office, Washington, D.C., 1985.

*OSHA Poster* (required to be posted in workplace), OSHA 2202, U.S. Department of Labor, Occupational Safety and Health Administration, 1985.

*All About OSHA*, OSHA 2056, U.S. Department of Labor, Occupational Safety and Health Administration, 1985.

*A Brief Guide to Recordkeeping Requirements for Occupational Injuries and Illnesses*, U.S. Department of Labor, Bureau of Labor Statistics, June 1986.

*Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970*, U.S. Department of Labor, Bureau of Labor Statistics, June 1983 (pamphlet).

*Employer Rights & Responsibilities Following an OSHA Inspection*, OSHA 3000, U.S. Department of Labor, Occupational Safety and Health Administration, 1985.

*Job Safety and Health: OSHA Inspections Are Only The Beginning*, OSHA 3029, U.S. Department of Labor, Occupational Safety and Health Administration, 1979.

*You Have a Right To Protect Your Life On the Job. That Right Is Called ELEVEN-C*, OSHA 3032, U.S. Department of Labor, Occupational Safety and Health Administration, 1978.

*Training Requirements in OSHA Standards and Training Guidelines*, OSHA 2254, U.S. Department of Labor, Occupational Safety and Health Administration, 1985.

*OSHA Publications and Audiovisual Programs*, OSHA 2019, U.S. Department of Labor, Occupational Safety and Health Administration, 1983.

"Field Sanitation; Final Rule," *Federal Register*, May 1, 1987.

## Hazard Communication Objective

The objective of the hazard communication regulation is to ensure that the hazards of all chemicals produced or imported to the United States are identified and

that information on protective measures is given to users and their employees. Both suppliers and users of chemicals are affected by this regulation. The definition of users includes farm employers. This program is intended to reduce the incidence of chemically related occupational illnesses and injuries.

## Effective Dates

Effective September 23, 1987 the regulation required that all chemical manufacturers, importers, and distributors ensure that material safety data sheets (MSDS) are provided with shipments of hazardous chemicals to non-manufacturing employers and distributors.

## Employer Provisions

The means of accomplishing the objectives are:

1. to have manufacturers and importers evaluate chemicals for hazardous characteristics
2. information concerning chemicals' hazards is to be transmitted by manufacturers and importers to employers and employees
3. the means of transmitting this information is to include:
  - a. container labeling and other forms of warning
  - b. material safety data sheets (MSDS)
  - c. employee information and training

The definition of a hazardous chemical includes any chemical which is a health or physical hazard. A health hazard means a chemical for which there is statistically significant evidence based on at least one study that acute or chronic health effects may occur in exposed employees. The term includes chemicals that are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. A physical hazard means a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive), or water reactive.

Employers shall develop, implement, and maintain at the workplace, a written hazard communication program for their workplaces which at least describes

how the criteria for labels and other forms of warning, material safety data sheets (MSDS), and employee information and training will be met and which also includes the following:

1. a list of the hazardous chemicals known to be present using an identity that is referenced on the appropriate MSDS; (The list may be compiled for the workplace as a whole or for individual work areas)
2. the methods the employer will use to inform employees of the hazards of non-routine tasks and the hazards associated with chemicals contained in unlabeled pipes in their work areas

Employers shall make the written hazard communication program available, upon request, to employees, their designated representatives, and to OSHA personnel.

### **Labels and Other Forms of Warning**

The chemical manufacturer, importer, or distributor shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked with: the identification of the hazardous chemical, appropriate hazard warnings, and name and address of the chemical manufacturer, importer, or other responsible party.

The employer shall ensure that each container of hazardous chemicals stored in the workplace is labeled, tagged, or marked with identification of the hazardous chemical or chemicals and appropriate hazard warnings. Signs, placards, process sheets, batch tickets, operating procedures, or other such written materials may be used in lieu of affixing labels to individual stationary process containers, as long as the alternative method identifies the containers to which it is applicable and conveys the required information. The written materials shall be readily accessible to the employees in their respective work area through each work shift.

Employers shall ensure that all labels or other forms of warning are legible, in English, and prominently displayed on the container, or readily available in the work area throughout each work shift. Employers having employees who speak other languages may add the information in their language as long as the information is presented in English as well.

### **Material Safety Data Sheets**

Employers shall have a MSDS for each hazardous chemical which they use. In most cases these sheets will be furnished by the chemical manufacturer or importer. Each MSDS shall be in English and contain the following information:

1. identity used on the label
2. the chemical and common name or names of ingredients which contribute to the hazards
3. types of hazards
4. symptoms of exposure
5. primary route of entry
6. permissible exposure limit
7. if the chemical is a potential carcinogen
8. precautions for safe handling and use which are known to the person preparing the MSDS including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks
9. any generally applicable control measures which are known
10. emergency and first aid procedures
11. the date of preparation of the MSDS
12. the name, address, and telephone number of the chemical manufacturer, importer, employer, or other responsible party preparing or distributing the MSDS

This is a general listing of the MSDS information. The more specific listing can be found in the reference cited at the end of this section.

Employers shall maintain copies of the required MSDS for each hazardous chemical in the workplace and ensure that they are readily accessible during each work shift to employees when they are in their work area(s).

### **Employee Information and Training**

Employers shall provide employees with information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new hazard is introduced into their area. Employees shall be informed of any operations in their work area where hazardous chemicals are present, and the location and availability of the written hazard communication

program, including the required list(s) of hazardous chemicals and MSDS's.

The training shall include:

1. methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released)
2. the physical and health hazards of chemicals in the work area
3. the measures employees can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used
4. the details of the hazard communication program developed by the employer, including an explanation of the labeling system and the MSDS, and how employees can obtain and use the appropriate hazard information

## Employee Provisions

There are no employee provisions.

## References

"Occupational Safety and Health Administration Hazard Communication: Final Rule", *Federal Register*, 29 CFR Parts 1910, 1915, 1917, 1918, 1926, and 1928, Aug. 24, 1987.

### OSHA regional and area offices

Chicago Regional Director — OSHA  
Regional Office Federal Office Building, Room 3244  
230 S. Dearborn Street  
Chicago, IL 60604  
Telephone: (312) 353-2220

Cincinnati Area Director — OSHA  
Area Office 36 Triangle Park Drive  
Cincinnati, OH 45246  
Telephone: (513) 841-4132  
Toll Free: 1-800-582-1708

Cleveland Area Director — OSHA  
Area Office Federal Office Building, Room 899  
1240 East 9th Street  
Cleveland, OH 44199  
Telephone: (216) 522-3818

Columbus Area Director — OSHA  
Area Office Federal Office Building, Room 620  
200 N. High Street  
Columbus, OH 43215  
Telephone: (614) 469-5582

Toledo Area Director — OSHA  
Area Office Federal Office Building, Room 734  
234 N. Summit Street  
Toledo, OH 43604  
Telephone: (419) 259-7542

Recordkeeping requirements, accident forms, copies of standards posters, and additional information may be secured by contacting the OSHA Regional Office in Chicago or one of the four area offices located in Ohio.

# Civil Rights Regulations

## Objective

The objective of the Civil Rights regulations is to prevent discriminatory employment practices on the basis of race, color, religion, sex, national origin, handicap, ancestry, or age.

## Coverage

The Federal Civil Rights Act of 1964 and Chapter 4112 of the Ohio Revised Code both apply to farm employers. The federal law applies only to employers with 15 or more employees. The Ohio law generally applies to employers with four or more employees.

## Employer Provisions

The federal law prohibits any discriminatory employment practices by employers of 15 or more employees on the basis of race, color, religion, sex, age, or national origin.

Age discrimination is prohibited by the Age Discrimination in Employment Act of 1967 by employers of twenty or more employees. The act protects persons ages 40 and older. The responsible agencies are the U.S. Department of Labor, Wage and Hour Division and the Equal Employment Opportunity Commission.

The Ohio Revised Code states that any employer of four or more employees may not discriminate on the basis of race, color, sex, religion, national origin, ancestry, or age. Discrimination on the basis of physical, mental and emotional disabilities is also prohibited. Discrimination against any employee with respect to hire, tenure, terms, conditions, or privileges of employment is prohibited.

Employers covered by the law must have an equal opportunity poster posted in a conspicuous place. This poster may be obtained from the Ohio Civil Rights Commission. The Equal Employment Opportunity Commission also requires covered employers to display an EEOC poster.

Prior to employment, the employer must not:

1. elicit any information concerning the race, color, religion, sex, national origin, ancestry, or age of an applicant
2. keep a record of these characteristics
3. publish advertisements indicating any preference, specifications, or discrimination based on any of these characteristics

If an employer has any government contracts, there may be additional requirements, including an "affirmative action plan" for insuring continued nondiscriminatory practices.

## Sexual Harassment

Title VII of the Civil Rights Act of 1964 is concerned with sexual harassment and applies to all employers. Sexual harassment is a violation of state and federal law. It includes behavior among co-workers as well as behavior between a supervisor and a subordinate. If an employer knows that another employee is engaging in such conduct toward another employee and does not stop it, the employer is just as guilty in the eyes of the law as the person actually making the harassment.

Sexual harassment is any sexual attention which is unwanted or is not freely and mutually agreeable to both parties. It includes, but is not limited to, leering, pinching, patting, verbal comments, subtle pressure for sexual activity, repeated propositions for dates, sexually suggestive objects or pictures in the work place, sexual jokes, unwanted body contact, attempted rape and rape.

Sexual harassment not only creates stress and anxiety, but it becomes coercive when it is supported by economic power. Such behavior is often accompanied by the message, either direct or implied, that noncompliance or reporting the harassment will lead to penalties. These messages may be in the form of escalation of the sexual demands, or other forms of harassment such as poor work assignments, sabotaging of the person's work,

ridicule, unsatisfactory job evaluations, threatened demotions, transfers, denial of raises, benefits, and promotions, undesirable shift assignments, dismissal from a job, and/or a poor job reference.

## Employee Provisions

An employee whose rights under the Act have been violated has legal recourse through the Ohio Civil Rights Commission and/or private lawsuit.

## Responsible Agencies

Rural Manpower Services, Ohio Bureau of Employment Services, 145 S. Front Street, Box 1618, Columbus, Ohio 43216; Telephone: (614) 466-2656.

Ohio Civil Rights Commission, 220 Parsons Avenue, Columbus, Ohio 43215; Telephone: (614) 469-2785. Also OCRC offices in Toledo, Akron, Cleveland, Dayton, and Cincinnati.

U.S. Department of Labor - Wage and Hour Division (addresses and phone numbers are included in minimum wage section of this handbook).

Equal Employment Opportunity Commission, 1375 Euclid Avenue, Cleveland, OH 44115; Telephone: (216) 522-7425 OR Room 7019, Federal Office Building, 550 Main Street, Cincinnati, OH 45202; Telephone: (513) 684-2851.

Ohio Department of Industrial Relations, Division of Women and Minors and Minimum Wage, 2323 W. 5th Avenue, P.O. Box 825, Columbus, OH 43215 (central office); Telephone: (614) 481-5415.

## References

Title VIII of Civil Rights Act of 1964, 42 U.S.C.A. §2000e et seq.

Age Discrimination in Employment Act of 1967, 29 U.S.C.A. §621 et seq.



# Americans with Disabilities Act

## Objectives

The Americans With Disabilities Act prohibits discrimination against people with disabilities. Discrimination is prohibited in employment, transportation, public accommodation, and activities of state and local government.

## Employment Coverage

Effective July 26, 1992, all employers with greater than 25 employees must comply with the provisions of the Americans With Disabilities Act. Effective July 26, 1994, all employers with greater than 15 employees must comply with the provisions of the Act. Employers must have application for employment procedures, qualification standards, selection criteria, and all other terms and conditions of employment which are non-discriminatory. In addition, employers must make reasonable accommodation to the known limitations of a qualified applicant or employee unless to do so would cause undue hardship. The bill makes exceptions regarding the employment of a person with a contagious disease, a person who illegally uses drugs or alcohol, employment of someone by a religious entity, and private membership clubs.

Disability is defined as anyone with a physical or mental impairment substantially limiting one or more major life activities; has a record of such impairment; or is regarded as having such an impairment. A "qualified individual with a disability" is defined as a person with a disability who can perform the essential functions of the job with or without reasonable accommodation.

## Employer Provisions

No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and

other terms, conditions, and privileges of employment. Reasonable accommodations to known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee must be made, unless the employer can demonstrate that the accommodation would impose undue hardship on the operation of the business.

Reasonable accommodation includes making existing facilities used by employees readily accessible and usable by individuals with disabilities. Reasonable accommodation also includes job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials and other similar accommodations for individuals with disabilities.

Undue hardship means an action requiring significant difficulty or expense. Several factors are considered when determining undue hardship. They include:

1. the nature and cost of the accommodation needed
2. the overall financial resources of the facility or facilities involved; the number of persons employed at the facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility
3. the overall financial resources of the covered entity; the overall size of the business with respect to number of employees; the number, type, and location of its facilities
4. the type of operation, including the composition, structure, and functions of the workforce entity; and the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity

A qualification standard, test or selection criterion which screens out or tends to screen out, or otherwise denies a job or benefit to an individual with a qualified disability which has been shown to be job related and cannot be corrected by reasonable accommodation is one

defense against the Act. The term qualification standard may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

The term qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs. However, an individual who has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has been rehabilitated successfully and is no longer engaging in such use can be a qualified individual with a disability.

Every employer, employment agency, labor organization, or joint labor-management committee covered under the Act shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of the Act.

## Public Accommodations

Effective January 26, 1992, no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodation of any place of public accommodation. Any entity licensed to do business with or serve the public must:

1. Assure that criteria for eligibility of services do not discriminate. Auxiliary aids and services are required unless they result in undue burden or fundamentally alter the nature of the goods or services.
2. Remove barriers from existing facilities when such removal is readily achievable. If not, alternative methods of making goods and services available must be provided.
3. Make altered facilities accessible to the maximum extent feasible. In major structural renovation, a path of travel to the altered area, including restrooms and other services, must be accessible.
4. New facilities must be accessible. Generally, other than health-care facilities and multilevel shopping malls, elevators need not be provided in buildings with less than three floors, or less than 30,000 square feet per floor.

## Responsible Agencies

The Equal Employment Opportunity Commission (EEOC) is the responsible regulatory agency. Additional information can be obtained by contacting the President's Committee on Employment of People with Disabilities.

Equal Employment Opportunity Commission (EEOC)  
1375 Euclid Avenue,  
Cleveland, OH 44115  
Phone (216) 522-7425

Equal Employment Opportunity Commission (EEOC)  
Room 7019  
Federal Office Building  
550 Main Street  
Cincinnati, OH 45202  
Phone (513) 684-2851.

President's Committee on Employment of People with Disabilities  
1331 F Street, NW  
Washington, DC 20004  
Phone 202-376-6200 (VOICE)  
202-376-6205 (TDD)

Ohio Governor's Council on People With Disabilities  
400 East Campus View Boulevard  
Columbus, Ohio 43235-4604  
Phone 614-438-1393  
1-800-282-4536 Extension 1391

## References

*Fact Sheet on Americans with Disabilities Act*, The President's Committee on Employment of People with Disabilities, U.S. Department of Labor, July 1, 1991.

*Americans with Disabilities Act of 1990*, 101st Congress, House of Representatives, Report 101-596, 1990.

# Immigration and Nationality Act

## Objective

The objective of the Immigration Reform and Control Act of 1986 is to promote the tradition of legal immigration, by eliminating the employment potential that attracts illegal entry into the United States.

## Coverage

The Act affects all American employers. The law makes it illegal to hire an unauthorized alien. An alien is an unauthorized alien unless: 1) the alien is lawfully admitted to the United States for permanent residence, or 2) the alien is authorized by the Immigration and Naturalization Service to be employed.

## Employer Provisions

The employer must verify the status of all employees hired after November 6, 1986. The attached form (Form I-9, Revised, 1991), prepared by the Immigration and Naturalization Service, is to be used for this purpose.

Employers are to have new employees complete the top portion of Form I-9 and request documents which establish both employment authorization and identity. The employer must examine one document that establishes both identity and employment eligibility (List A), or one document that establishes identity (List B) *and* one document that establishes employment eligibility (List C). The employer is then to complete and sign the employer portion of Form I-9. The employer may copy documents presented by the employee as proof of employment eligibility if the copies are attached to Form I-9. The employer may not copy employment eligibility documents for any other purpose.

## Employee Provisions

The employee must complete the top portion of Form I-9 (Section 1) and provide original documents that show proof of identity and give authorization to

work. Employees must present one document from the identity and employment list on the back of the Form I-9 (List A), or one document from the identity list (List B) *and* one document from the employment eligibility list (List C). A sample of Form I-9 and several of the more common documents are included at the end of this section.

## Documentation Requirements

Several classes of aliens are authorized to be employed in the United States as a condition of their status and no specific employment authorization is required. These classes include:

1. lawful permanent resident alien
2. alien admitted as refugee, for the specific period admitted
3. alien paroled into the United States as a refugee, for the period of time in that status
4. alien granted asylum, for period of time in that status
5. alien admitted to the United States as a non-immigrant fiance or fiancée, for the period of admission to the U.S.
6. alien admitted or whose status is changed to:
  - a. non-immigrant crewman
  - b. temporary worker or trainee
  - c. applicants for adjustment of status (permitted by the new law)

The employer still must request and review identification documents.

## Identity/Employment Documents

The following documents are acceptable to show *both* identity and employment eligibility (List A, Form I-9):

1. United States passport (unexpired or expired)
2. Certificate of U.S. citizenship (INS Form N-560 or N-561)
3. Certificate of Naturalization (INS Form N-550 or N-570)

4. unexpired foreign passport which:
  - a. contains an unexpired stamp which states “processed for I-551 ...”, or
  - b. has a Form I-94 attached indicating unexpired employment authorization
5. Alien Registration Receipt Card with photograph (INS Form I-151 or I-551), commonly known as a Green Card
6. unexpired Temporary Resident Card (INS Form I-688)
7. unexpired Employment Authorization Card (INS Form I-688A)
8. unexpired Reentry Permit (INS Form I-327)
9. unexpired Refugee Travel Document (INS Form I-571)
10. unexpired Employment Authorization Document issued by the INS which contains a photograph (INS Form I-688B)

## Identity Documents

The following documents are acceptable to establish identity (List B, Form I-9):

1. Driver’s license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address
2. ID card issued by federal, state, or local government agencies or entities provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address
3. School ID card with a photograph
4. Voter’s registration card
5. U.S. Military card or draft record
6. Military dependent’s ID card
7. U.S. Coast Guard Merchant Mariner Card
8. Native American tribal document
9. Driver’s license issued by a Canadian government authority

For persons under age 18 who are unable to present a document listed above:

10. School record or report card
11. Clinic, doctor, or hospital record
12. Day-care or nursery school record

## Employment Eligibility Documents

The following documents are acceptable to show employment authorization only (List C, Form I-9):

1. U.S. social security card issued by the Social Security Administration (other than a card stating it is not valid for employment)
2. Certification of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350)
3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
4. Native American tribal document
5. U.S. Citizen ID Card (INS Form I-197)
6. ID Card for use of Resident Citizen in the United States (INS Form I-179)
7. Unexpired employment authorization document issued by the INS (other than those listed under List A)

If employment authorization documents expire for any employed alien, the employer must re-verify employment eligibility in order to legally continue the alien’s employment.

Employers are not required to verify the status of employees hired before November 6, 1986. No penalties will be assessed against an employer for retaining an illegal alien hired before November 6, 1986. This does not give the illegal alien the right to legally remain in the United States.

If an employer chooses to verify the status of employees hired before November 6, 1986, the employer must verify the status of *all* employees.

If a minor (under age 18) cannot produce an identity and employment document (List A) or an identity document (List B) the Form I-9 should be completed in the following way:

1. a parent or legal guardian must complete Section 1 of Form I-9 and write “Individual under age 18” in the space for the employee’s signature
2. the parent or legal guardian must complete the “Preparer/Translator Certification” block
3. the employer writes in Section 2 of Form I-9 the words, “Individual under age 18” under List B in the space after the words “Document #”

If this procedure is followed, the minor must still produce a document for List C of Form I-9 that shows employment eligibility.

## Rehire of Employees

If an employee is rehired, the employer must verify that the person is still eligible to work. A new Form I-9 may be completed, or the original Form I-9 may be re-verified or updated by completing section 3 on the new Form I-9. Form I-9 may be re-verified if:

1. the employee is rehired within three years of the original hire
2. the employee's previous grant of work authorization has expired but he or she is currently eligible to work on a different basis or under a new grant of work authorization

Form I-9 may be updated if:

1. the employee is rehired within three years of the original hire
2. the employee is still eligible to work on the same basis as when the original Form I-9 was completed

In all situations with respect to rehiring, the employer has the option of completing a new Form I-9 instead of completing Section 3.

## Record Keeping

Form I-9 is to be retained by the employer for three years after the date of hire or for one year after an employee has been terminated, whichever is later.

Employers are to make forms available for inspection upon oral request and presentation of credentials by either the Immigration and Naturalization Service, the Department of Labor, or the Office of Special Counsel for Immigration Related Unfair Employment Practices (OCS). No warrant or advance notice needs to be given to an employer, but the employer has three days to produce the forms after a request has been made.

## The Immigration Act of 1990

The Immigration Act of 1990 amends the Immigration and Nationality Act. The Immigration Act of 1990 contains new anti-discrimination and document fraud provisions. The anti-discrimination provisions state that an employer cannot request that an employee present more or different documents than are required by the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990. Also, the employer cannot

refuse to honor documents which appear to be genuine (see end of section for examples of documents). The new law makes these actions unfair immigration related practices.

The Immigration Act of 1990 document fraud provisions state that it is unlawful to engage in any of the following activities for the purpose of satisfying a requirement of the Act:

1. to forge, alter, or falsely make any document
2. to use, attempt to use, possess, obtain, accept or receive any forged, counterfeit, altered, or falsely made document
3. to use or attempt to use any document lawfully issued to a person other than the possessor (including a deceased individual)
4. to accept or receive any document lawfully issued to a person other than the possessor (including a deceased individual) for the purpose of complying with the employment eligibility verification requirements

## Violations

An employer is considered to be in violation of the law and subject to penalties if:

1. the employer does not complete and retain for the required period of time Form I-9 for all employees hired after November 6, 1986
2. the employer continues to employ an individual hired after November 6, 1986, knowing the employee is or has become an unauthorized alien
3. the employer obtains the labor or services of an unauthorized alien through a contract or subcontract

## Penalties

**Civil:** An employer who knowingly hires or continues to employ an unauthorized alien is subject to the following civil fines:

1. first violation: \$250-\$2,000 for each unauthorized alien
2. second violation: \$2,000-\$5,000 for each unauthorized alien
3. more than two violations: \$3,000-\$10,000 for each unauthorized alien

In addition, failure to comply with the verification requirements of the law may result in a fine of \$100-\$1,000 for each violation.

**Criminal:** Employers who knowingly continue to hire unauthorized aliens after November 6, 1986 may face fines up to \$3,000 per illegal alien hired and/or six months imprisonment.

These criminal penalties are reserved for serious or repeated violations.

Persons who make fraudulent or false statements to show identification and/or work eligibility or use false documents may be imprisoned up to five years or fined or both. This applies to both employees and employers who sign statements on Form I-9 under penalty of perjury.

### Temporary Employment of Alien Workers

The Immigration and Nationality Act provisions for the temporary employment of alien workers (H-2A workers) are restrictive and have not been used extensively in Ohio. An employer must apply to the U.S. Department of Labor at least sixty calendar days before the first date on which workers are needed. The employer must also meet conditions regarding recruitment of U.S. workers, wage rates, free housing, meals, transportation, workers' compensation insurance, tools and supplies, and guarantee work for at least three-fourths of the workdays in the contract. In addition, the employer must employ any qualified U.S. worker who applies for a job until fifty percent of the contract period has elapsed. There is also a certification fee of \$100 plus \$10 for each job opportunity certified, up to a maximum fee of \$1000 for each certification granted.

### Responsible Agency

The Immigration and Naturalization Service is responsible for enforcement of this law. For further information contact one of the following Immigration and Naturalization Service offices.

Deputy Assistant Commissioner  
Investigation Division  
Immigration and Naturalization Service  
Room 2207  
425 I Street, N.W.  
Washington, DC 20536  
Telephone: (202) 514-0747

Immigration and Naturalization Service  
U.S. Department of Justice  
Federal Building, Room 1917  
1240 East Ninth Street  
Cleveland, OH 44199  
Telephone: (216) 522-4770

Immigration and Naturalization Service  
U.S. Department of Justice  
550 Main St.  
Room 8525  
Cincinnati, OH 45202  
Telephone: (513) 684-3781.

### References

*Handbook for Employers; Instructions for Completing Form I-9*, Immigration and Naturalization Service, M-274 (Rev. 11/21/91).

"Immigration Reform and Control Act; Notice to Employers," *Federal Register*, June 5, 1987.

"Implementation of the Immigration Reform and Control Act; Proposed Rules," *Federal Register*, March 19, 1987.

*Information for Employers About the New Immigration Law*, Immigration and Naturalization Service, OMB #1115-0136, March 1987.

*Highlights of Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States—H-2A Program*, U.S. Department of Labor, January, 1988.

*H-2A Program Employer Information Booklet*, U.S. Department of Labor, October, 1987.

U.S. Department of Justice  
Immigration and Naturalization Service

OMB No 1115 0136  
Employment Eligibility Verification

## INSTRUCTIONS

PLEASE READ ALL INSTRUCTIONS CAREFULLY BEFORE COMPLETING THIS FORM

**Anti-Discrimination Notice.** It is illegal to discriminate against any individual (other than an alien not authorized to work in the U.S.) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

**Section 1 - Employee.** All employees, citizens and noncitizens, hired after November 6, 1986, must complete Section 1 of this form at the time of hire, which is the actual beginning of employment. **The employer is responsible for ensuring that Section 1 is timely and properly completed.**

**Preparer/Translator Certification.** The Preparer/Translator Certification must be completed if Section 1 is prepared by a person other than the employee. A preparer/translator may be used only when the employee is unable to complete Section 1 on his/her own. However, the employee must still sign Section 1 personally.

**Section 2 - Employer.** For the purpose of completing this form, the term "employer" includes those recruiters and referrers for a fee who are agricultural associations, agricultural employers, or farm labor contractors.

Employers must complete Section 2 by examining evidence of identity and employment eligibility within three (3) business days of the date employment begins. If employees are authorized to work, but are unable to present the required document(s) within three business days, they must present a receipt for the application of the document(s) within three business days and the actual document(s) within ninety (90) days. However, if employers hire individuals for a duration of less than three business days, Section 2 must be completed at the time employment begins. **Employers must record:** 1) document title, 2) issuing authority, 3) document number, 4) expiration date, if any, and 5) the date employment begins. Employers must sign and date the certification. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. These photocopies may only be used for the verification process and must be retained with the I-9. **However, employers are still responsible for completing the I-9.**

**Section 3 - Updating and Reverification.** Employers must complete Section 3 when updating and/or reverifying the I-9. Employers must reverify employment eligibility of their employees on or before the expiration date recorded in Section 1. Employers **CANNOT** specify which document(s) they will accept from an employee.

- If an employee's name has changed at the time this form is being updated/ reverified, complete Block A.
- If an employee is rehired within three (3) years of the date this form was originally completed and the employee is still eligible to be employed on the same basis as previously indicated on this form (updating), complete Block B and the signature block.

- If an employee is rehired within three (3) years of the date this form was originally completed and the employee's work authorization has expired or if a current employee's work authorization is about to expire (reverification), complete Block B and:
  - examine any document that reflects that the employee is authorized to work in the U.S. (see List A or C),
  - record the document title, document number and expiration date (if any) in Block C and
  - complete the signature block.

**Photocopying and Retaining Form I-9.** A blank I-9 may be reproduced provided both sides are copied. The instructions must be available to all employees completing this form. Employers must retain completed I-9s for three (3) years after the date of hire or one (1) year after the date employment ends whichever is later.

**For more detailed information, you may refer to the INS Handbook for Employers, (Form M-274). You may obtain the handbook at your local INS office.**

**Privacy Act Notice.** The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a).

This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States.

This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by officials of the U.S. Immigration and Naturalization Service, the Department of Labor and the Office of Special Counsel for Immigration Related Unfair Employment Practices.

Submission of the information required in this form is voluntary. However, an individual may not begin employment unless this form is completed since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.

**Reporting Burden.** We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: 1) learning about this form, 5 minutes; 2) completing the form, 5 minutes; and 3) assembling and filing (recordkeeping) the form, 5 minutes, for an average of 15 minutes per response. If you have comments regarding the accuracy of this burden estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536, and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115-0136, Washington, D.C. 20503.

Form I-9 (Rev. 11-21-91) N

**EMPLOYERS MUST RETAIN COMPLETED I-9  
PLEASE DO NOT MAIL COMPLETED I-9 TO INS**

# Immigration

U.S. Department of Justice  
Immigration and Naturalization Service

OMB No. 1115-0136  
Employment Eligibility Verification

Please read instructions carefully before completing this form. The instructions must be available during completion of this form. **ANTI-DISCRIMINATION NOTICE.** It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.


**Section 1. Employee Information and Verification.** To be completed and signed by employee at the time employment begins

|  |       |  |                                |
|--|-------|--|--------------------------------|
| Print Name: Last   | First | Middle Initial   | Maiden Name                    |
| Address (Street Name and Number)   |       | Apt. #   | Date of Birth (month/day/year) |
| City   | State | Zip Code   | Social Security #              |
| <b>I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.</b> |       | <b>I attest, under penalty of perjury, that I am (check one of the following):</b><br><input type="checkbox"/> A citizen or national of the United States<br><input type="checkbox"/> A Lawful Permanent Resident (Alien # A _____)<br><input type="checkbox"/> An alien authorized to work until ____/____/____<br>(Alien # or Admission # _____) |                                |
| Employee's Signature   |       |  | Date (month/day/year)          |

**Preparer and/or Translator Certification.** (To be completed and signed if Section 1 is prepared by a person other than the employee) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

|   |            |
|---|------------|
| Preparer's/Translator's Signature                       | Print Name |
| Address (Street Name and Number, City, State, Zip Code) |            |
| Date (month/day/year)                                   |            |

**Section 2. Employer Review and Verification.** To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C as listed on the reverse of this form and record the title, number and expiration date, if any, of the document(s)

| List A                                  | OR  | List B         | AND | List C         |
|---|---|----------------|-----|----------------|
| Document title: _____                   |  | _____          |     | _____          |
| Issuing authority: _____                |   | _____          |     | _____          |
| Document #: _____                       |   | _____          |     | _____          |
| Expiration Date (if any) ____/____/____ |   | ____/____/____ |     | ____/____/____ |
| Document #: _____                       |   | _____          |     | _____          |
| Expiration Date (if any) ____/____/____ |   |                |     | _____          |

**CERTIFICATION** - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) \_\_\_\_/\_\_\_\_/\_\_\_\_ and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment).

|   |            |                       |
|---|------------|-----------------------|
| Signature of Employer or Authorized Representative      | Print Name | Title                 |
| Business or Organization Name                           |            | Date (month/day/year) |
| Address (Street Name and Number, City, State, Zip Code) |            |                       |

**Section 3. Updating and Reverification.** To be completed and signed by employer

|   |  |
|---|--|
| A. New Name (if applicable)   | B. Date of rehire (month/day/year) (if applicable) |
| C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility<br>Document Title: _____ Document # _____ Expiration Date (if any) ____/____/____                   |  |
| <b>I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.</b> |  |
| Signature of Employer or Authorized Representative  | Date (month/day/year)                              |

Form I-9 (Rev. 11-21-91) N



LISTS OF ACCEPTABLE DOCUMENTS

| LIST A  |    | LIST B   |     | LIST C   |
|---|----|--|-----|--|
| Documents that Establish Both Identity and Employment Eligibility   | OR | Documents that Establish Identity  | AND | Documents that Establish Employment Eligibility  |
| 1. U.S. Passport (unexpired or expired)   |    | 1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address |     | 1. U.S. social security card issued by the Social Security Administration ( <i>other than a card stating it is not valid for employment</i> )                            |
| 2. Certificate of U.S. Citizenship ( <i>INS Form N-560 or N-561</i> )   |    | 2. ID card issued by federal, state, or local government agencies or entities provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address                |     | 2. Certification of Birth Abroad issued by the Department of State ( <i>Form FS-545 or Form DS-1350</i> )  |
| 3. Certificate of Naturalization ( <i>INS Form N-550 or N-570</i> )   |    | 3. School ID card with a photograph  |     | 3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal |
| 4. Unexpired foreign passport, with <i>I-551</i> stamp or attached <i>INS Form I-94</i> indicating unexpired employment authorization |    | 4. Voter's registration card   |     | 4. Native American tribal document   |
| 5. Alien Registration Receipt Card with photograph ( <i>INS Form I-151 or I-551</i> )   |    | 5. U.S. Military card or draft record  |     | 5. U.S. Citizen ID Card ( <i>INS Form I-197</i> )  |
| 6. Unexpired Temporary Resident Card ( <i>INS Form I-688</i> )  |    | 6. Military dependent's ID card  |     | 6. ID Card for use of Resident Citizen in the United States ( <i>INS Form I-179</i> )  |
| 7. Unexpired Employment Authorization Card ( <i>INS Form I-688A</i> )   |    | 7. U.S. Coast Guard Merchant Mariner Card  |     | 7. Unexpired employment authorization document issued by the INS ( <i>other than those listed under List A</i> )   |
| 8. Unexpired Reentry Permit ( <i>INS Form I-327</i> )   |    | 8. Native American tribal document   |     |  |
| 9. Unexpired Refugee Travel Document ( <i>INS Form I-571</i> )  |    | 9. Driver's license issued by a Canadian government authority  |     |  |
| 10. Unexpired Employment Authorization Document issued by the INS which contains a photograph ( <i>INS Form I-688B</i> )              |    | For persons under age 18 who are unable to present a document listed above:  |     |  |
|   |    | 10. School record or report card   |     |  |
|   |    | 11. Clinic, doctor, or hospital record   |     |  |
|   |    | 12. Day-care or nursery school record  |     |  |

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)

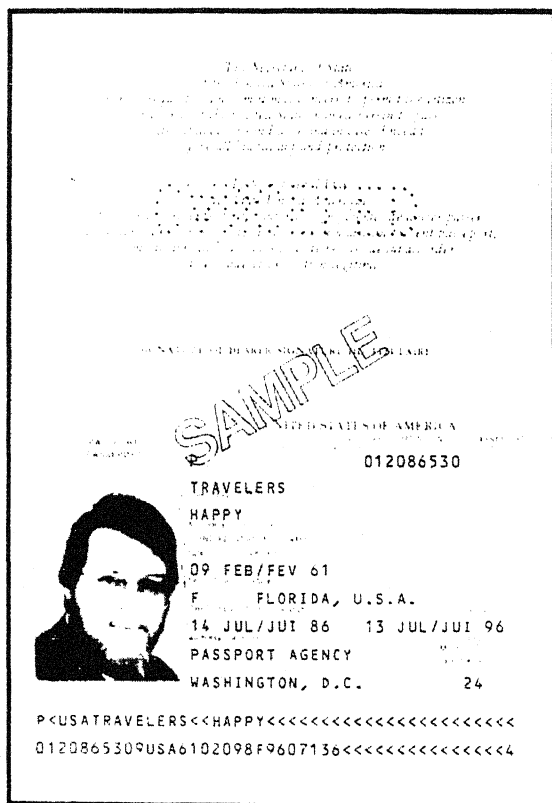
## Document List A

### Documents That Establish Both Identity and Employment Eligibility

The following illustrations in this handbook do not necessarily reflect the actual size of the documents.

#### United States Passport

Issued by the Department of State to United States citizens and nationals.



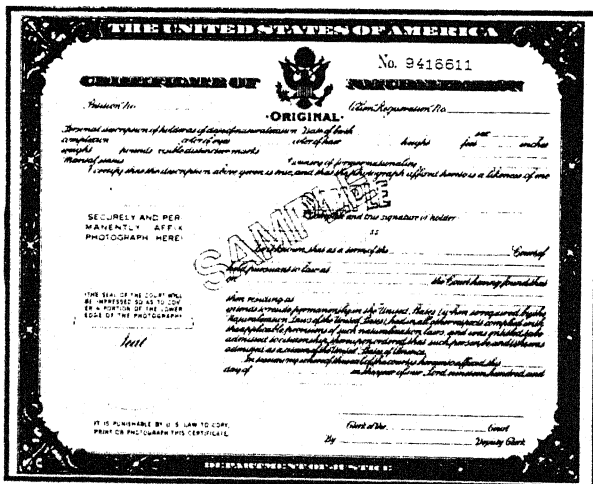
#### Certificate of United States Citizenship N-560 or N-561

Issued by INS to individuals who: 1) derived citizenship through parental naturalization; 2) acquired citizenship at birth abroad through a United States parent or parents; or 3) acquired citizenship through application by United States citizen adoptive parent(s); and who, pursuant to section 341 of the Act, have applied for a certificate of citizenship.



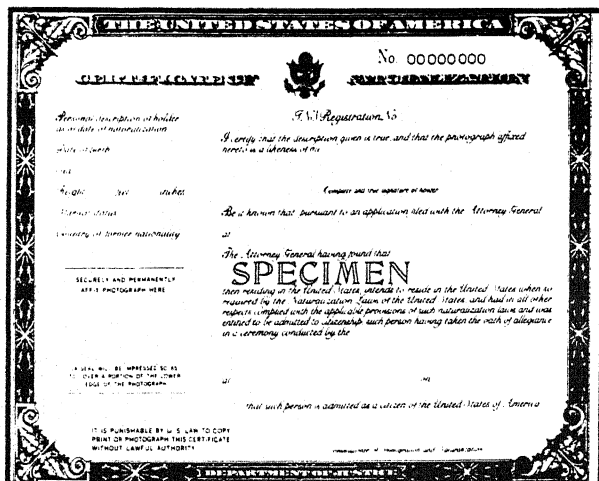
#### Certificate of Naturalization N-550 or N-570

Issued by INS to naturalized United States citizens.

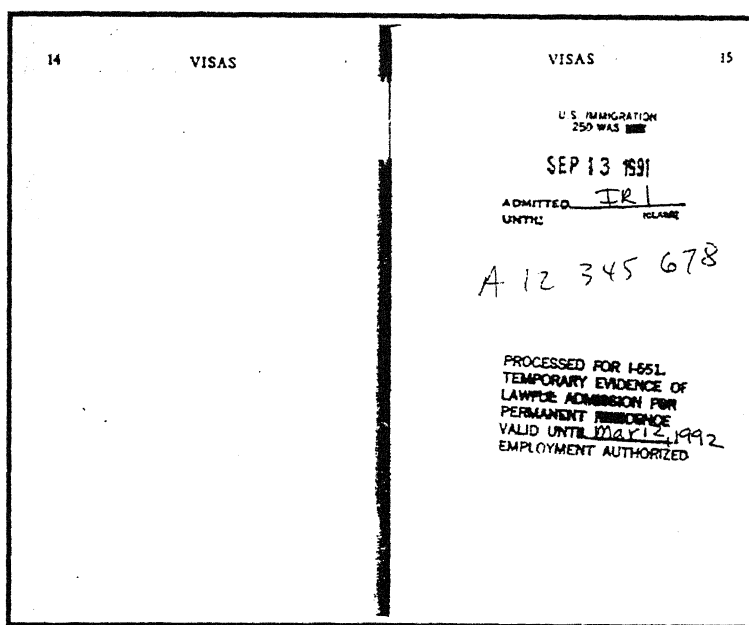


#### Certificate of Naturalization N-550

Issued by INS to naturalized United States citizens who file for naturalization after October 1, 1991.



Unexpired Foreign Passport with I-551 Stamp



I-94 Arrival/Departure Record

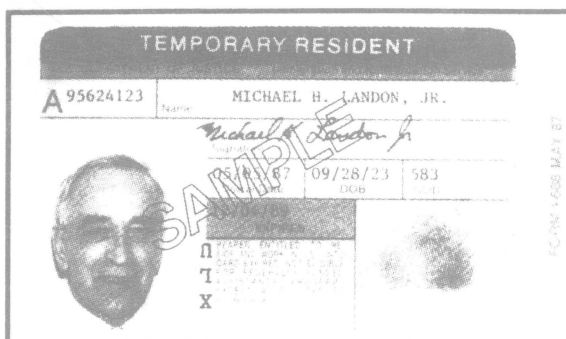
Arrival-departure record issued by INS to nonimmigrant aliens. An individual in possession of the departure portion of this document may only be employed if the document bears an "employment authorization" stamp or employment incident to the nonimmigrant classification is authorized with a specific employer (i.e. A-1, A-2, A-3, C-2, C-3, E-1, E-2, G-1, G-2, G-3, G-4, G-5, H-1A, H-1B, H-2A, H-2B, H-3, I, L-1, O-1, O-2, P-1, P-2, P-3, Q, NATO 1-7 and TC). The expiration date is noted on the Form I-94.

|   |  |  |  |
|---|--|--|--|
| Departure Number                          |  | SAMPLE                                 |  |
| 742832036 01                              |  | U.S. IMMIGRATION<br>250 WAS            |  |
| Immigration and<br>Naturalization Service |  | SEP 13 1991                            |  |
| I-94<br>Departure Record                  |  | ADMITTED L-1<br>UNTIL (CLASS)          |  |
| 14. Family Name<br>DOE                    |  | July 10, 1993                          |  |
| 15. First (Given) Name<br>JOHN            |  | 16. Birth Date (Day Mo Yr)<br>16.04.62 |  |
| 17. Country of Citizenship<br>U.K.        |  |  |  |



## Temporary Resident Card I-688

Issued by INS to aliens granted temporary resident status under the Legalization or Special Agricultural Worker program. It is valid until the expiration date stated on the face of the card or on the sticker(s) placed on the back of the card.

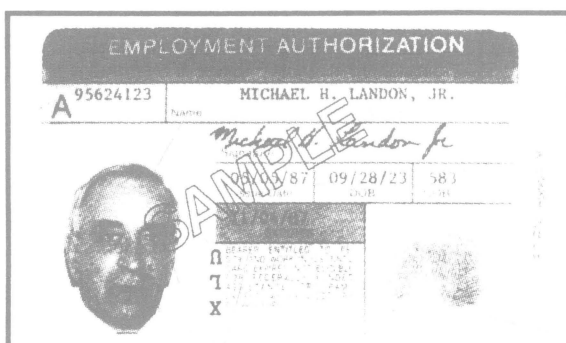


Presentation of this document will authorize a transportation line to accept the named bearer on board for travel to the United States without liability under Section 273 of the Immigration and Nationality Act. Presentation of this document prior to the expiration date will authorize an immigration officer at a port of entry in the United States to permit the named bearer whose photograph, fingerprint and signature appear hereon, to enter the United States and assume the status previously granted under Section 245A or Section 210 of the Immigration and Nationality Act, as amended.

This document is evidence of alien registration and must be carried at all times and is VOID if data on reverse is altered.

## Employment Authorization Card I-688A

Issued by INS to applicants for temporary resident status after their interview for Legalization or Special Agricultural Worker status. It is valid until the expiration date stated on the face of the card or on the sticker(s) placed on the back of the card.

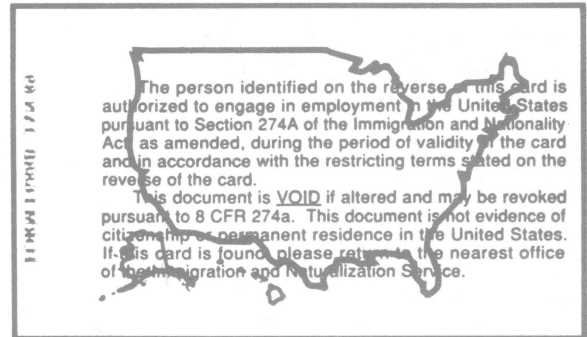
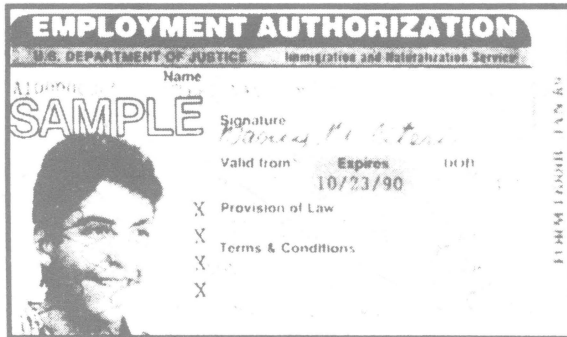


The person identified on the reverse is an applicant for Temporary Resident status under a provision of the Immigration and Nationality Act as amended by P.L. 99-603. This document, presented during its validity period by the person to whom it was issued is a document of identity and employment eligibility required to be examined by an employer under Section 274A of the Act.

This document is evidence of alien registration and must be carried at all times and is VOID if altered.

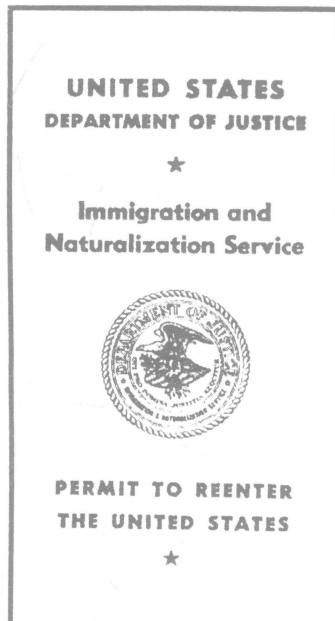
## Employment Authorization Card I-688B

Issued by INS to aliens granted temporary employment authorization in the U.S. The expiration date is noted on the face of the card.



## Unexpired Re-Entry Permit I-327

Issued by INS to lawful permanent resident aliens before they leave the United States for a 1-2 year period.



|         |                                     |                             |  |             |
|---------|-------------------------------------|-----------------------------|--|-------------|
| 2       | NAME                                |                             | REGISTRATION NUMBER  |             |
|         | ADDRESS IN U.S.                     |                             | A  |             |
|         | DATE OF BIRTH                       | COUNTRY OF BIRTH            | COUNTRY OF CLAIMED NATIONALITY   |             |
|         | EYES                                | HAIR                        | HEIGHT   | FEET INCHES |
| 1272351 | VISIBLE SCARS AND MARKS             |                             |  |             |
|         | VALIDITY OF PERMIT                  |                             |  |             |
|         | PERMIT EXPIRES                      | VALIDITY EXTENDED TO        | VALIDITY EXTENDED TO   |             |
|         | DATE AND LOCATION OF ISSUING OFFICE | DATE AND LOCATION OF OFFICE | DATE AND LOCATION OF OFFICE  |             |
| 1272351 | SIGNATURE DISTRICT DIRECTOR         |                             | SIGNATURE REVALIDATING OFFICER   |             |
|         |                                     |                             |  |             |
|         |                                     |                             |  |             |
|         |                                     |                             |  |             |
| 3       | PHOTOGRAPH                          |                             | NOTICE   |             |
|         |                                     |                             | <p>VALID FOR <input type="checkbox"/> ONE ENTRY ONLY <input type="checkbox"/> MULTIPLE ENTRIES</p> <p>A permit to reenter has no effect under the immigration laws except to show that the person to whom issued is returning from a temporary visit abroad and relieve him of the necessity of securing a visa from an American Consul before returning to the United States. It does not relieve him from meeting the other requirements of the immigration laws. Persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude either before or after entering the United States, other criminal, immoral, insane, mentally or physically defective aliens, those afflicted with loathsome or contagious diseases, and others found to be inadmissible under the immigration laws are subject to exclusion if attempting to reenter, notwithstanding they may be in possession of permits to reenter.</p> |             |

# Federal Income Tax Withholding on Farm Wages

## Objectives

The objectives of federal income tax withholding are to collect income tax revenues on a current basis, reduce the need for employees to file and pay estimated taxes, and to reduce the amount of tax owed by a taxpayer at income tax filing time.

## Coverage

Farm employers *must* withhold income tax from any agricultural employee paid cash wages of \$150 or more in a year or from all employees if the total wages paid are \$2,500 or more during the year. Employers subject to social security and Medicare tax withholdings are also subject to income tax withholdings. Farm employers *may* withhold income tax from any employee not meeting these guidelines.

Agricultural labor includes all services performed on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

## Employer Provisions

### Withholding

Employees subject to income tax withholding must file a Form W-4 with employers. Otherwise, the employer must withhold federal income taxes from the employee's wages as if the employee claimed only one withholding allowance (two withholding allowances if the employee's most recent W-4 forms shows the employee is married). The amount of tax to withhold is set out in IRS circulars A and E. Withholding is not required if an employee certifies by filing Form W-4 that he or she had no income tax liability last year and anticipates no income tax liability for the current year.

### Deposit of Withholding Tax

The frequency of the employer's deposits of withheld income tax, social security taxes on wages paid, and the employer's share of social security and Medicare taxes for agricultural labor and the time permitted to make the deposits vary, depending upon the amount of taxes and length of pay period.

Employers are to deposit the total tax due (employer and employee portions) by sending a single check or postal money order covering social security, Medicare and withheld income taxes to an authorized financial institution or a Federal Reserve bank. If the tax owed is less than \$500 for an entire return period (calendar year or fiscal year), an employer can send in the deposit with the W-2 and Form 943 or Form 941.

If the tax owed is \$500 or more at the end of the month, the employer must deposit all of it by the 15th of the next month. If the tax owed is at least \$3,000 but less than \$100,000 at the end of any of the eight deposit periods during the month (3rd, 7th, 11th, 15th, 19th, 22nd, 25th, and the last day of every month), the employer must deposit at least 95 percent of what is owed within three banking days. For example, if employees are paid on the 7th of the month and the amount of tax owed is \$450, the employer does not need to deposit within three banking days but may hold the taxes until the amount owed is \$500. However, suppose employees are paid again two weeks later on the 21st of the same month and taxes owed now total \$3,000. The employer must deposit at least 95 percent of the amount of taxes owed within three banking days.

Each deposit must be accompanied by a federal tax deposit (FTD) coupon. A booklet of these coupons and instructions are automatically sent to the employer upon application for an identification number. If an employer is not receiving the coupons, instructions, and forms for reporting and paying employment taxes the IRS should be contacted.

## Information Returns

The employer must prepare a Form W-2, "Wage and Tax Statement," for every employee to whom the employer paid any amount for services, including any payment made that was not in cash, if the employer is in a trade or business. Copy A of the form is sent to the Social Security Administration. Copies B and C of Form W-2 must be given to the employee by January 31. The IRS copy of Form W-2 is sent to the Internal Revenue Service along with the transmittal Form W-3 and Form 943. Form 943 summarizes the total wages paid, the social security and income taxes owed, deposits made during the year, and any additional amount owed to the IRS. Non-agricultural employers use Form 941 in place of Form 943. These forms must be sent to the IRS by the end of January for the previous tax year.

## Record Keeping

An employer must keep all employment tax records for at least four years after the date the tax becomes due or is paid, whichever is later. This includes undelivered copies of Form W-2.

## Employee Provisions

Farm employees should be aware that every citizen or resident of the U.S., whether an adult or minor, who had \$5,500 or more income in 1991 must file a return. In the case of married couples filing joint returns, the amount is \$10,000. If one spouse on a joint return is over 65 years of age, the amount is \$10,650; and if both spouses are over 65 years of age, the amount is \$11,300. These amounts will increase for 1992 and later years to adjust for inflation.

Employees who receive part or all of their wages in a noncash form may need to pay estimated income taxes. Employees who estimate their income tax liability to be \$500 or more in 1992 may have to file Form 1040-ES and pay the estimated tax. The tax must be paid in four quarterly installments.

All employees should file Form W-4 with employers to ensure correct withholding of taxes.

## Working Students Subject to Withholding

Under the tax law, an individual is not subject to withholding of federal income tax if:

1. No tax was paid last year.
2. No federal income tax liability is anticipated for the current year. The student employee should fill out Form W-4E, "Withholding Exemption Certificate," and give it to the employer. These forms can be obtained from the Internal Revenue Service district office. Student employees who do this will not have to wait for refunds.

## Responsible Agency

The Internal Revenue Service of the U.S. Department of the Treasury is the responsible agency. District offices are located in Cleveland and Cincinnati.

## References

*Circular A, Agricultural Employer's Tax Guide*, Department of Treasury Internal Revenue Service, Publication 15, January 1991.

*Circular E Employer's Tax Guide*, Department of Treasury Internal Revenue Service, Publication 15, January 1991.

*Farmer's Tax Guide*, 1991 Edition, Internal Revenue Service Publication 225, October 1991.



# Ohio State Income Tax Withholding on Farm Wages

## Objectives

The objectives of Ohio income tax withholding are to collect income tax revenues on a current basis, reduce the need for employees to file and pay estimated taxes, and to reduce the amount of tax owed by a taxpayer at income tax filing time.

## Coverage

The Ohio State Income Tax law does not require, but does permit, withholding for state income tax from farm employee earnings. In contrast, withholding is mandatory for most nonfarm employees. To be exempt from withholding taxes, the employee must be exclusively employed in agricultural labor as defined in Division G of Section 3121 of Title 26 of the United States Code, or meet one of the other exceptions. If an employer withholds state taxes, it may be required to withhold school district and local taxes. Check with the local government agency about withholding requirements.

## Employer Provisions

### Application for Withholding

If an employee wishes to have his employer withhold state income tax, the employee should make the request in writing and should furnish the employer with a completed "Withholding Exemption Certificate" (IT-4). If the employer then chooses to withhold taxes, the employer must file form IT-1, "Application For Registration As An Ohio Withholding Agent."

### Withholding Account Number

An Ohio withholding account number will be assigned to the withholding agent after registration. All forms and correspondence must reflect this account number. The information for registration includes: name, trade name (if any), address and county, federal employer identification number, type of business, and

filing requirement. The registration application must be filed within 15 days of deciding to withhold.

### Deposits of Withholding Tax

A farm employer withholding state income tax must make monthly deposits, if the employer's total estimated Ohio income tax withholding equals \$1,000 or more during a calendar quarter. Payments are made to the Ohio Department of Taxation (Form IT-501) with remittance made payable to the Treasurer of the State of Ohio in the amounts withheld.

Monthly withholding payments are due not later than ten banking days following the last day of the calendar month during which taxes are withheld.

Quarterly payments may be remitted if the employer reasonably estimates that the amount to be deducted and withheld during the quarter will not exceed \$1,000. Quarterly payments are due not later than 30 days following the last day of March, June, September and December.

Partial monthly payments are necessary if the total undeposited taxes total more than \$15,000. A partial monthly withholding period means the period ending on the 3rd, 7th, 11th, 15th, 19th, 22nd, 25th, and last day of each month. Payment of the undeposited taxes shall be made within three banking days following the end of the partial monthly withholding period during which the \$15,000 limitation was exceeded.

### Ohio Annual Report

All farm employers who withheld income tax must furnish each employee who had tax withheld, on or before January 31, two copies of the report of compensation paid during the calendar year and the amount deducted and withheld as tax. Employers may use Ohio Form IT-2 or federal optional Form W-2 (combined W-2).

All farm employers withholding Ohio income tax must also furnish the Ohio Department of Taxation with the following forms:

# Ohio Tax Withholding

---

**On or before January 31**—Annual reconciliation of monthly or quarterly payments of tax withheld (Ohio Form IT-941)

**Before the last day of February**—A copy of Ohio Form IT-3 together with a list (preferably an adding machine tape) of the amount of income tax withheld.

## Records

Every employer required to withhold Ohio income tax is required to maintain a current, accurate record of all persons from whom tax is collected.

Records must include:

1. amounts and dates of all compensation paid subject to withholding
2. names, addresses, school district of residence, principal county of employment (non-resident) and social security numbers of all employees receiving such compensation
3. period of employment, including periods during which compensation is paid while absent due to sickness or injury
4. amount of compensation paid by pay period
5. copies of annual returns filed with the Ohio Department of Taxation

Records must be maintained for at least four years from the date the tax is withheld or the date the tax is paid, whichever is later. Employers may obtain instructions for withholding, forms, tables and other information from the State of Ohio Department of Taxation.

## Employee Provisions

### Income Tax Filing

Every individual with Ohio income, whether or not the person resides in Ohio is subject to the Ohio income tax and must file an annual Individual Income Tax Return, Form IT-1040, with the following exceptions:

1. an individual who is eligible for the retirement income credit need not file a return unless the tax before credits exceeds the amount of the credit
2. an individual who is eligible for the senior citizen credit need not file a return unless the tax before credits exceeds \$50
3. an individual with a deduction for personal and dependency exemptions that equals or exceeds the Ohio adjusted gross income

4. an individual who chooses the personal exemption credit need not file a return unless the tax before credits exceeds the amount of personal exemption credit
5. a resident of Indiana, Kentucky, West Virginia, Michigan, or Pennsylvania whose income earned in Ohio consists solely of compensation which is not subject to the withholding of Ohio income tax because of reciprocity agreements between Ohio and these states

## Ohio Estimated Income Tax Declaration

Farm employees who reside in Ohio or in another state but receive income in Ohio are subject to the Ohio income tax. Unless the farm employee has an agreement with the employer to withhold Ohio income tax, the employee must file Form IT-1040ES, "Declaration of Estimated Individual Income Tax." In cases where the farm employee expects to be under-withheld by more than \$300, the declaration of estimated tax must be filed.

The declaration of estimated tax must be filed and payment of the estimated tax made on or before April 15th, June 15th, and September 15th of the current year and January 15th of the next year for calendar year taxpayers.

## Responsible Agency

Ohio Department of Taxation  
Income Tax Division  
P.O. Box 2476  
Columbus, OH 43216.  
1-800-282-1780

## References

*Employers Ohio Income Tax Withholding Instructions*, W/H 1, State of Ohio, Department of Taxation, August, 1989.

*Ohio's Personal Income Tax Law: A Guide Prepared for the 1991 Farm Income Tax Schools*, Ohio Department of Taxation, Research and Statistics Section, 1991.

# Social Security Employee Taxes

## Objective

The objective of the social security coverage of farm employees is to provide monthly cash benefits to replace a part of the earnings lost through an employee's retirement, death, disability or hospitalization.

## Coverage

Covered farm employers must withhold the tax from their employee's cash wages and match the employee tax with an equal amount. The total amount of tax is forwarded to the Internal Revenue Service. Social security taxes are often referred to as FICA (Federal Insurance Contributions Act) taxes. Beginning in 1991, the computation of social security tax is separated into two parts. The old-age, survivors, and disability insurance part is referred to as social security. The hospital insurance part is referred to as Medicare. Both parts must be paid.

Farm employers are included in the provision of this regulation if there are one or more agricultural employees on the farm (including employer's parents or children 18 years of age or older) who meet either of the following two tests:

1. The employee was paid *cash* wages of \$150 or more during the year.
2. The employer paid wages (cash and/or noncash) of \$2500 or more during the year to all employees. There is an exception for certain hand harvesters that commute from their home to the farm.

If employees are subject to FICA tax withholding, federal income tax must also be withheld.

Some types of family employment are not covered by social security. Family employment not covered is any work performed by:

1. a child under 18 years of age in the employ of the father or mother
2. a parent in the employ of a son or daughter performing:
  - a. domestic service in or about the private home of the son or daughter

- b. work not in the course of the son's or daughter's trade or business

These family exemptions are required, not optional. For example, a 17-year-old child employed by a parent cannot elect social security coverage.

However, a child or married individual is covered for purposes of social security if work is performed for:

1. a corporation, even if it is controlled by the child's parent or the individual's spouse
2. a partnership, even if the child's parent is a partner, unless each partner is a parent of the child
3. a partnership, even if the individual's spouse is a partner
4. an estate, even if it is the estate of a deceased parent

## Employer Provisions

Employers who meet the employee test are required to withhold social security, Medicare tax, and federal income tax from the cash wages paid each employee.

The wage base is determined annually. In 1992, the tax rate for social security is 6.2 percent each for employers and employees (12.4 percent total) for wages up to \$55,500 per employee per year. The tax rate for Medicare is 1.45 percent each for employers and employees (2.9 percent total) for wages up to \$130,200.

The wage base is the maximum total earnings in a calendar year on which an employee pays social security or Medicare tax. To illustrate, an employee earning \$20,000 in 1992 pays social security tax in the amount of \$1,240 ( $\$20,000 \times .062$ ) and the employer pays a matching tax of \$1,240. The employee would also pay Medicare tax in the amount of \$290 ( $\$20,000 \times 0.0145$ ) and the employer pays a matching \$290.

Employers are to deposit the total tax due (employer and employee portions) by sending a single check or postal money order covering social security, Medicare and withheld income taxes to an authorized financial

institution or a Federal Reserve bank. If the tax owed is less than \$500 for an entire return period (calendar or fiscal year), an employer can send in the deposit with the W-2 and Form 943 or Form 941. If the tax owed is \$500 or more at the end of any month, the employer must deposit all of it by the 15th of the next month.

If the tax owed is at least \$3,000 but less than \$100,000 at the end of any of the eight deposit periods during the month (3rd, 7th, 11th, 15th, 19th, 22nd, 25th, and the last day of every month), the employer must deposit at least 95 percent of what is owed within three banking days. For example, if employees are paid on the 7th of the month and the amount of tax owed is \$450, the employer does not need to deposit within three banking days but may hold the taxes until the amount owed is \$500 (as explained in the previous paragraph). However, suppose employees are paid again two weeks later on the 21st of the same month and taxes owed now total \$3,000. The employer must deposit at least 95 percent of the amount of taxes owed within three banking days.

Social security withholding and income tax withholding from employees' earnings have overlapping deposit requirements. The discussion of federal income tax withholding in this handbook should be considered in combination with this discussion of social security withholding.

Each employee from whom social security taxes have been withheld must be provided with a statement which shows total wages, income taxes, and social security taxes withheld. This statement must be provided on or before January 31. If a family of workers is employed, a separate W-2 for each worker needs to be completed. Completing Form W-2, "Wage and Tax Statement," and giving copies B and C to the employee will satisfy this requirement.

One copy of the W-2 is sent to the social security Administration and one copy is sent to IRS. The copy sent to IRS is accompanied by a W-3 transmittal form and a Form 943. The Form 943 summarizes all the social security and federal income tax withholdings, deposits, and additional required deposits. For non-agricultural employers, a Form 941 is used in place of a Form 943.

## Employee Provisions

Each employee must have a social security account number. The social security number is also the employee's taxpayer identification number. If an employee does not have a number, the employee should apply for one at the nearest social security office. Applicants must furnish proof of age, identity, and U.S. citizenship or immigrant status.

The social security number establishes an account for the employee which is used to keep a record of earnings during the employee's lifetime. If an employee has a change of name, a new card with the new name should be obtained from any social security office. The old number should be retained. If a social security number is lost, a duplicate card showing the original number should be requested from the nearest social security office.

Employers are required to give employees a statement of social security taxes deducted from earnings at the end of each year. The statements provide a record of earnings, but it is a good idea for employees to check with the Social Security Administration every three years to make sure earnings are being correctly reported to their record. A free postcard form can be obtained from any social security office for this purpose.

## Responsible Agency

The Social Security Administration is responsible for the administration of benefits, even though the Internal Revenue Service collects the social security tax contributions. There are social security field offices located throughout Ohio. A local telephone directory should be consulted for the address and telephone number of the nearest office.

## References

*Farmers Tax Guide, 1991 Edition*, Internal Revenue Service Publication No. 225, October 1991.

*Crew Leaders and Farmers*, Social Security Administration Publication No. 05-10015, 1991.

*How You Earn Social Security Credits*, Social Security Administration Publication No. 05-10072, 1992.

*Understanding Social Security*, Social Security Administration Publication No. 05-10024, 1992.

# Targeted Jobs Tax Credit

## Objective

The objective is to provide employers with a federal tax incentive to create new jobs and/or fill job openings with persons from selected groups with high unemployment or special employment needs.

## Coverage

The Revenue Act of 1978 established the Targeted Jobs Tax Credit (TJTC) as an elective tax credit. The credit has since been extended by various tax enactments.

Employers who hire new employees from selected groups with high unemployment or special employment needs can elect to claim credits against tax. There is a 40 percent tax credit on the first \$6,000 of qualified wages (\$2,400) for each new employee, other than a summer youth employee. The maximum qualified wages for a summer youth employee is \$3,000; the credit allowed for this target group is 40 percent of the qualified wages. The tax credit is a dollar for dollar reduction of the tax liability otherwise due.

There are few restrictions placed upon this program. Eligible applicants:

1. are not required to be American citizens, except nonresident aliens with F or J visas are not eligible because they are permitted in the country for assignment to specific jobs
2. can be employed in part-time or full-time jobs
3. are not required to be paid the minimum wage (unless the employer is otherwise required to pay the minimum wage)
4. can work for more than one employer at the same time and bring the tax credit to each

There are several applicant groups targeted as participants in the Targeted Jobs Tax Credit program. Members of each of these groups must possess certain characteristics to be eligible participants. The groups and their characteristics are as follow:

**Vocational Rehabilitation Referrals**—This group include individuals who have physical or mental dis-

abilities and are referred to the employer after completing or while receiving vocational rehabilitation services.

**Economically Disadvantaged Youths**—These are individuals between the ages of 18 and 23 years old, who are members of economically disadvantaged families.

**Economically Disadvantaged Vietnam Veterans**—This group includes Vietnam-era veterans who served on active duty for a period of more than 180 days, any part of which occurred from August 5, 1964 through May 7, 1975, or who served during the same period and received a disability discharge or release. To be eligible the veteran cannot have been on extended active duty for a period of more than 90 days during the 60 days before the date hired and must be a member of an economically disadvantaged family.

**SSI Recipients**—Individuals in this group are receiving federal supplemental security income (SSI) during a month ending during the period 60 days before the hiring date.

**General Assistance Recipients**—Individuals in this group are those who receive cash payments during a period of not less than 30 days ending within the 60 days before the hiring date, under a State or local general assistance program that provides individuals with money payments on the basis of need. In Ohio recipients of general assistance from any county are eligible. The Food Stamp program is *not* a qualified general assistance program.

**Cooperative Education Students**—This group includes youths, ages 16 through 19, who have not graduated from high school or vocational school and who are active participants in qualified cooperative education programs. The school offering the program must certify that the youth meets certain requirements.

**Economically Disadvantaged Ex-convicts**—This group is made up of individuals from economically disadvantaged families, who have been convicted of felonies and who were hired not more than five years after the last date of such conviction or of release from prison.

**Eligible Work Incentive Employee**—This group includes individuals designated by a local agency as being eligible for financial assistance under the Social

Security Act and have continually received financial assistance during the 90 days immediately before the date hired, or was employed under a work incentive program.

**Economically Disadvantaged Summer Youth Employee**—This group includes any individual who performs services for the employer between May 1 and September 15 each summer, is at least 16 but not yet 18 years of age on the first day of work which must not be before May 1, has not been an employee of the employer at any time previously, and is a member of an economically disadvantaged family.

In order for the employer to claim the tax credit, the employee must remain employed at least 90 days or work at least 120 hours (14 days or 20 hours for a Summer Youth).

### Employer Provisions

For an employer to claim the credit, the wages must be paid or incurred to an employee who is certified as a member of a targeted group by the Ohio Bureau of Employment Services. The employer must make a written request for certification on or before the day the individual begins work. Employers have five days to make a written request for certification if the employee has received a "voucher" containing preliminary determination of eligibility.

The credit is limited to the employer's federal income tax liability for the year. The targeted jobs credit is now combined with certain other business credits (investment credit, alcohol fuels credit, and ESOP credit) to make a single general business credit (including any carrybacks and carryovers). The credit is limited to the smaller of the amount of income tax owed, or \$25,000 plus 85 percent of the tax that is over \$25,000.

If the new jobs credit exceeds the liability after reduction for other credits, the unused credit of the current year may be carried back to each of the three preceding years and the balance still unused carried forward for 15 years and is applied on a first-in, first-out basis. This includes carryovers for unused new job credits (effective in 1977 and 1978) and WIN credits.

The jobs tax credit influences the deduction for wages which can be claimed by agricultural employers. The wages paid deduction must be reduced by the dollar amount of the credit allowable during the tax year.

Wages of certain employees who started work for the employer after August 13, 1981 do not qualify for the credit. The wages of an employee who is a dependent and lives in the employer's home and is a member of the employer's household does not qualify for the credit. In addition, wages of an employee who is related to the employer do not qualify for the credit. An employee is considered to be related to the employer if the employee is:

1. a son or daughter or a descendent of a son or daughter
2. a stepson or stepdaughter
3. a brother, sister, stepbrother, or stepsister
4. the father, mother, or an ancestor of either
5. the stepfather or stepmother
6. a son or daughter of a brother or sister
7. a brother or sister of the father or mother
8. a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law

A corporation can get jobs tax credit for employees who are relatives of a stockholder or corporate officer.

No credit may be claimed on a rehired employee, unless the employee was certified during the previous employment.

### Employee Provisions

There are no provisions which apply specifically to employees.

### Responsible Agency

The U.S. Department of the Treasury and the Department of Labor jointly operate the Targeted Job Tax Credit Program. The Ohio Bureau of Employment Services (OBES) is responsible for local operations in cooperation with other agencies. OBES is also responsible for determining applicant eligibility and processing employer certifications. See the unemployment insurance section of this handbook for a list of local OBES offices.

### References

*Tax Guide for Small Business*, Internal Revenue Service Publication 334, Revised January, 1992.

# Migrant and Seasonal Agricultural Worker Protection Act

## Objective

The objective of the Act is to provide for the protection of migrant and seasonal agricultural workers.

## Coverage

The Migrant and Seasonal Agricultural Worker Protection Act was enacted January 14, 1983. The Act contains provisions similar to those of the Farm Labor Contractor Registration Act of 1963 which was repealed when this act was passed. The Act requires any person who desires to engage in any activity as a farm labor contractor to obtain a Certificate of Registration separately authorizing each contracting activity. A farm labor contractor is any person who, for a personal fee, or on behalf of another person, recruits, solicits, hires, furnishes or transports any number of workers (excluding members of the contractor's immediate family) for agricultural employment, whether within a state or across state lines.

"Person" includes any individual, partnership, association, business trust, or corporation, legal representative, or any organized group of persons. "Fee" includes any money or other valuable consideration paid or promised to be paid to a person for services as a farm labor contractor. "Immediate family" of the contractor includes only a spouse; children, stepchildren, and foster children; parents, step-parents, and foster parents; and brothers and sisters.

The Act establishes specific protection for migrant and seasonal agricultural workers. "Agricultural employment" is defined very broadly to include virtually all aspects of employment in agriculture. In addition to on-farm employment, the definition includes handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its un-manufactured state.

It is important to note that the Act appears to be concerned only with migrant and seasonal farm workers. However, the terms migrant and seasonal agricultural worker, for purposes of this Act, are defined to include any individual who is employed in agriculture, or who performs agricultural labor on a seasonal or other temporary basis. The key element of these definitions is that any individual who is performing agricultural work of a seasonal or temporary nature is covered under the Act. The Act does not include immediate family members of an agricultural employer or a farm labor contractor, or any temporary non-immigrant alien who is authorized to work in agricultural employment in the United States.

Employers who own or operate a farm and recruit farm workers solely for their own operations are exempt from the Act. An individual who has incorporated for business purposes is also exempt from the Act.

Other exemptions from the Act include:

1. an employer's regular or full-time employee who engages in farm labor contractor activities exclusively for the employer
2. common carriers engaged solely in transporting farm workers
3. any person who engages in contracting activity within a 25-mile interstate radius of the person's permanent home and does not engage in contracting activity for more than 13 weeks in a calendar year
4. any custom combine, hay harvesting, or sheep shearing operation

There are some additional exemptions, but these do not apply to Ohio agricultural employers or crew leaders typically involved in farm labor activities in the state.

### Farm Labor Contractor Provisions

Farm labor contractors covered by the Act have several specific responsibilities. They must:

1. Register with the U.S. Department of Labor. A Certificate of Registration must be carried at all times while engaged in farm labor contracting activities and shown to appropriate persons when dealing as a farm labor contractor. Any full-time or regular employee who may act in behalf of a registered contractor must register with the U.S. Department of Labor. A Certificate of Registration as an employee of a farm labor contractor must be carried at all times while engaging in farm labor contracting work. Farm labor contractors may apply for registration at any local office of the Ohio Bureau of Employment Services. Certificates of Registration are generally effective for a period of twelve months, from the date of issuance, unless suspended or revoked. The certificates and cards may be denied, suspended, or revoked for failure to comply with the Act.
2. Notify the U.S. Department of Labor within 30 days of any change in address.
3. Apply to amend the Certificate of Registration whenever the farm labor contractor intends to:
  - a. engage in another farm labor contracting activity not included in the original certificate
  - b. use, or cause to be used, another vehicle than that covered by the certificate, to transport any migrant or seasonal agricultural worker
  - c. use, or cause to be used, another real property or facility to house any migrant agricultural worker than that covered by the certificate.

A farm operator who deals directly with a farm labor contractor must make sure that the contractor is properly registered before using the contractor's service. The user must determine that the farm labor contractor/crew leader has a valid U.S. Department of Labor Certificate of Registration which authorizes the contractor to perform the services required by the user. Contractors who house or transport workers must have certificates specifying those activities. For example, a farmer may arrange for the crew leader to transport workers. The farmer must examine the crew leader's Certificate

of Registration to determine whether or not transportation of workers is authorized. If workers are transported by a crew leader not authorized to provide transportation, both the farmer and the crew leader may be cited for and assessed civil money penalties for unauthorized activities.

### Migrant and Seasonal Worker Protection

Each covered farm labor contractor, agricultural employer, and agricultural association which recruits any migrant or seasonal agricultural worker have the following responsibilities under the Act:

1. At the time of recruitment, inform each worker in writing, in a language in which the worker is fluent, of all living and working conditions, including location of work site, crops and operations on which the worker may be employed, wages, housing facilities, transportation and insurance, the period of employment, charges to be made for the services provided, the existence of any labor dispute at the work place, or any kickback arrangement between the farm labor contractor and local commercial or retail merchants who deal with the workers.
2. Post the "Migrant and Seasonal Agricultural Worker Protection Act" poster in a conspicuous place at the place of employment. This poster which sets out the rights and protections for workers under the Act may be obtained from the U.S. Department of Labor.
3. The employer of any migrant agricultural worker must provide at the place of employment and on request of the worker, a written statement of the conditions of employment. Such information is to be provided in English and if necessary in Spanish or another language common to migrant or seasonal agricultural workers not fluent in English.
4. Clearly post, in a language in which the worker is fluent, the terms and conditions of occupancy for housing owned or controlled by the farm labor contractor, agricultural employer or agricultural association. (All housing must comply with federal and state health standards outlined in the migrant labor camp section of this Handbook.)
5. Farm labor contractors, agricultural employers and agricultural associations which employ migrant and seasonal workers:



- a. will pay wages when due and provide an itemized written statement of earnings and deductions
- b. will not require workers to purchase any goods or services solely from such employer
- c. shall not violate the terms of a working arrangement without justification

### Record Keeping

Farm labor contractors, agricultural employers, and agricultural associations which employ any migrant or seasonal agricultural worker are required to maintain payroll records of workers recruited for their benefit. The farmer must have these records even if the workers are paid directly by the contractor.

These payroll records must show, for each worker:

1. name
2. permanent address
3. social security number
4. the basis on which wages are paid
5. the number of piecework units earned, if paid on a piecework basis
6. the number of hours worked
7. the total pay period earnings
8. the specific sums withheld and the purpose of each sum withheld
9. the net pay

Payroll records are to be retained for three years from the end of the period of employment.

### Motor Vehicle Safety

The Act establishes specific safety vehicle standards for vehicles used to transport migrant or seasonal agricultural workers. These standards apply whether the worker is on the farm or on the road. These standards do not apply to agricultural machinery and equipment nor to migrant or seasonal workers being transported by other family members.

The farm labor contractor, agricultural employer or agricultural association may not transport any migrant or seasonal worker in any vehicle the employer owns, operates, controls, or causes to be operated unless the employer has an insurance policy or liability bond. The required limits for bodily injuries to, or death of, one person is \$100,000. The required limit for bodily injuries to, or death of, all persons injured or killed in any one accident (subject to a maximum of \$100,000 for bodily

injuries to, or death of, one person) is \$1,500,000 if the passenger equipment is for 15 passengers or less and \$5,000,000 if the equipment is for more than 15 passengers. The required limit for loss or damage in any one accident to property of others (excluding cargo) is \$50,000. Any licensed insurance agent can sell this insurance.

### Safety and Health of Housing

The Act also has provisions for housing migrant agricultural workers. Any person who owns or controls a facility which is used as housing for migrant agricultural workers shall be responsible for ensuring that the facility complies with federal and state safety and health standards applicable to that housing. No facility may be occupied by any migrant agricultural worker unless a state or local health authority or other appropriate agency has certified that the facility meets the health and safety standards. The certificate must be posted at the site before the facility can be occupied by migrant agricultural workers. The Migrant Labor Camp Regulations section of this Handbook provides specific information on federal and state housing standards.

### Penalties

Any person who willfully and knowingly violates the Act or any regulation under the Act is subject to a fine up to \$1,000 or up to one year in prison. The Act also provides a civil money penalty sanction up to \$1,000 per violation.

Any person claiming to be aggrieved by a violation of the Act or regulations under the Act by another person may file suit in a United States District Court.

No person may intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant or seasonal agricultural worker where the worker has with just cause filed a complaint or initiated a proceeding under this Act. Workers who believe they have been discriminated against may file a complaint with the Secretary of Labor within 180 days after the violation occurs.

### Responsible Agency

Additional information may be obtained from any local office of the Ohio Bureau of Employment Services

# Migrant Worker Protection

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(OBES). See the section on unemployment insurance for a listing of local OBES offices. Local offices of OBES can provide the necessary forms and accept applications for registration of farm labor contractors and farm labor contractor employees. The OBES will forward the applications to the appropriate regional office of the Wage and Hour Division of the Employment Standards Administration.

The agency responsible for certification and enforcement of the Migrant and Seasonal Agricultural Worker Protection Act is the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division. Ohio area offices of the Division are:

## **Cincinnati**

525 Vine Street, Suite 880  
Cincinnati, OH 45202-3268  
Telephone: (513) 684-2902

## **Cleveland**

Room 817, Federal Office Building  
1240 East 9th Street  
Cleveland, OH 44199-2054  
Telephone: (216) 522-3892

## **Columbus**

Room 646, Federal Office Building  
200 North High Street  
Columbus, OH 43215-2475  
Telephone: (614) 469-5677.

## References

*Migrant and Seasonal Agricultural Worker Protection Act*, WH Publication 1465, Revised July 1989.

*Migrant and Seasonal Agricultural Worker Protection Act, Poster*, U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division.

*Regulations, Part 500 Migrant and Seasonal Agricultural Worker Protection*, WH Publication 1455, Revised December 1986.

*Notice: Migrant and Seasonal Agricultural Worker Protection Act*, WH Publication 1376, Revised April 1983.

# Migrant Labor Camp Regulations

Persons providing temporary housing for migrant farm workers potentially face three sets of housing regulations:

1. agricultural labor camp regulations set out in the Ohio Revised Code and administered by the State of Ohio Department of Health
2. federal regulations of the U.S. Department of Labor administered by the Ohio Bureau of Employment Services
3. Occupational Safety and Health Act (OSHA) temporary labor camp regulations administered by the Occupational Safety and Health Administration, U.S. Department of Labor

Although these regulations are similar, they differ in some important housing requirements and enforcement responsibilities. Therefore, farm employers and employees need to be familiar with the three sets of regulations and the variations in inspection requirements.

## State of Ohio Labor Camp Regulations Objective

The objective of the state regulations is to ensure that migrant farm workers have adequate, safe, sanitary and healthful housing facilities during the time they are employed in Ohio.

## Coverage

Any person who operates an agricultural labor camp in Ohio is covered by the state regulations. For practical purposes, a farm employer has an agricultural labor camp if he or she is providing temporary housing by rent, lease, or agreement to two or more families or five or more persons engaged in agriculture or related food processing. (This does not include a hotel, motel or trailer park.) To illustrate, one family of four workers

living in a building on or off the employer's farm would not constitute an agricultural labor camp. Four workers not in the same family living on or off the farm would not constitute a labor camp. However, two families with one worker each living on or off the farm would constitute a labor camp.

## Employer Provisions

Each person who operates an agricultural labor camp must obtain a license to operate a labor camp. The Director of the Ohio Department of Health has responsibility for licensing migrant agricultural labor camps. The license is issued after an inspection indicates the camp meets the health department rules specified in the Ohio Administrative Code.

All operators of camps are to make application to the licenser before April 15 of each year. The license is effective only for the calendar year in which it is issued. The camp cannot be opened for occupancy without a license.

A farm employer planning to construct or extensively alter a labor camp must submit plans to the Ohio Department of Health for approval. Construction or alteration may not be started without written approval.

Following application for a license to operate a camp, an inspection is conducted by the Ohio Department of Health. This inspection is to ascertain whether the minimum standards required by Ohio law are satisfied. Specifically, the inspection is concerned with the housing site; water supply; excreta and liquid waste disposal; condition of housing and space provided; screening; heating, electricity and lighting; toilet facilities; bathing, laundry, and hand washing facilities; cooking and eating facilities; garbage facilities; insect and rodent control; sleeping facilities; and fire, safety and first aid facilities. Detailed requirements for each of these areas are specified in Chapter 3701-33 of the Ohio Administrative Code. Employers and employees should consult this code for more details.

# Labor Camp Regulations

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Three specific responsibilities are assigned the camp operator:

1. The camp operator is responsible for the maintenance of the camp. The camp operator or a designated agent must routinely check the labor camp facilities to make sure the camp is still in compliance with the requirements under Ohio law. The camp operator must abate any maintenance problem, nuisance or unsanitary condition that may develop in the camp or be brought to his attention by the licensor.
2. When the camp is partially or totally abandoned or partially or totally vacated, the camp operator is responsible for placing the affected buildings and grounds in a clean and sanitary condition.
3. The camp operator has the responsibility of notifying the local health department of the name and address of any individual in the camp known or suspected to have a communicable disease.

The license to operate the camp may be denied, suspended or revoked for violation of the Code. However, the denial, suspension or revocation may be effective without delay only if there is an immediate and serious health hazard. Otherwise, the camp operator is given notice in writing of specific violations and allowed a reasonable time to make corrections.

When a license is issued to operate a migrant agricultural labor camp, the licensor will provide posters which contain a toll-free telephone number for the migrant agricultural ombudsman (see below) and information in English and Spanish describing the purpose of the ombudsman's office. A copy of this poster and the license is to be posted in a conspicuous place within the camp.

The regulations specifically provide that an inspector from the Ohio Department of Health, after presenting proper identification to the camp operator, may enter any property or structure at any reasonable time for the purpose of making inspections. At least one inspection shall be made prior to licensing and at least two inspections during occupancy of a camp. One of the inspections during occupancy is to be an unannounced inspection conducted after 5:00 p.m. The evening inspection is to determine and record the housing unit occupancy of the camp and determine compliance with the Agricultural Labor Camp Rules.

Under the Ohio Code, violation of labor housing regulations is a minor misdemeanor. The penalty specified for violation of a minor misdemeanor is a fine of not more than \$100.

## Employee Provisions

Farm workers occupying labor camps are required to keep the part of the dwelling and camp they occupy clean and sanitary. Occupants must have the permission of the camp operator to modify or move any building, facility, or piece of equipment.

## Responsible Agency

The State of Ohio Department of Health is responsible for the agricultural labor camp provisions of the Ohio Administrative Code. However, the Director of the State Department of Health can delegate responsibility to local boards of health to enforce Sections 3733.41 to 3733.49 of the Ohio Revised Code. However, the Director of Health shall retain authority to issue, deny, renew, suspend, or revoke all agricultural labor camp licenses. Camp operators should consult their phone directories for the address and phone number of the local department of health.

The Ohio Department of Health central office is located at:

246 North High Street  
Columbus, OH 43266-0588  
Telephone: (614) 466-1450.

District Offices are located at:

Northwest District Office  
Toledo Government Center - 13th Floor  
Toledo, Ohio 43604  
Labor Camp Regulations  
Telephone: (419) 245-2840

Northeast District Office  
Ocacek Building, Suite 400  
161 South High Street  
Akron, Ohio 44308-1616  
Telephone: (216) 379-1300

Southwest District Office  
40 South Main Street  
Dayton, Ohio 45402  
Telephone: (513) 285-6250

Southeast District Office  
2197 Front Street  
Logan, Ohio 43138  
Telephone: (614) 385-6851

## References

Ohio Revised Code, Sections 3733.41 to 3733.48.  
*Agricultural Labor Camps*, Ohio Administrative  
Code, Chapter 3701-33.

# U.S. Department of Labor Federal Labor Camp Regulations

## Objective

The objective of the federal regulations is to ensure that migrant farm workers recruited for Ohio farm employers through the U.S. Department of Labor Services have housing in Ohio which is hygienic and adequate to the climatic conditions of Ohio, large enough to accommodate the workers, and in a condition that does not endanger the lives, health, or safety of the workers and their families.

## Coverage

An Ohio agricultural employer who uses the interstate worker recruitment service of the U.S. Department of Labor must have housing approved by the department. Ohio employers not using this service of the Department of Labor are not affected by these federal housing regulations. In Ohio, the U.S. Department of Labor assistance in recruitment of migrant farm workers is provided through the Ohio Bureau of Employment Services.

The inspection of labor camps for the U.S. Department of Labor is based on federal regulations. Thus, a camp inspection by the Ohio Department of Health does

not satisfy the U.S. Department of Labor requirement for a camp inspection for users of their services. However, the Ohio Department of Health and Ohio Bureau of Employment Services work in cooperation so that both inspections are normally made at the same time.

## Employer Provisions

These provisions affect only those Ohio agricultural employers using the U.S. Department of Labor interstate worker recruitment services. Employers using the services of the department must have their housing approved through the Ohio Bureau of Employment Services. The Bureau uses the U.S. Department of Labor standards for its inspections.

An employer initiates the interstate worker order through a local office of the Ohio Bureau of Employment Services. The application for workers will result in an inspection of the labor camp.

The inspection is to determine whether or not the minimum standards specified in the federal regulations are satisfied. The standards are similar to those specified in the Ohio Administrative Code, but there are some differences. The federal code specifies standards for the housing site; water supply; condition of housing and space provided; screening; heating; electricity and lighting; toilets; bathing, laundry, and hand washing; cooking and eating facilities; garbage and other refuse disposal; insect and rodent control; sleeping facilities; and fire, safety, and first aid.

## Employee Provisions

There are no provisions specifically for employees.

## Responsible Agency

The Ohio Bureau of Employment Services is responsible for administering the interstate recruitment services and the associated housing inspections. The unemployment insurance section of this handbook includes a listing of the Bureau's offices.

## References

"Temporary Labor Camps", Title 29, *Code of Federal Regulations*, Part 1910.142.

# Labor Camp Regulations

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*Migrant and Seasonal Agricultural Worker Protection Act*, 29 USC 1801, Public Law 97-470, 96 Stat. 2583, January 14, 1983.

## OSHA Regulations for Temporary Labor Camps

### Objective

The general purpose of the Occupational Safety and Health Act is to ensure, as far as possible, every working person in the nation safe and healthful working conditions and to preserve our human resources. The OSHA labor camp regulations are consistent with the general purpose of the Act.

### Coverage

In 1982, the Ohio Department of Industrial Relations and OSHA entered into a contract under which the Ohio Department of Industrial Relations can conduct agricultural labor camp inspections for OSHA using the standards of the U.S. Department of Labor. However, independent of any inspections by the Department of Industrial Relations, the Ohio Department of Health also makes inspections of all housing licensed by their agency. The Department of Industrial Relations usually makes inspections when requested by the employer. The standards used by the Department of Industrial Relations are the same standards used by the Ohio Bureau of Employment Services in making camp inspections.

### Employer Provisions

An agricultural labor camp must be maintained in a condition that satisfies the minimum requirements of the U.S. Department of Labor regulations discussed above.

It is the duty of the camp operator to report immediately to the local health officer the name and address of any person known to have or suspected of having a communicable disease.

## Employee Provisions

There are no provisions specifically for employees.

## References

*Code of Federal Regulations*, 29 CFR Ch. XVII, Section 1910.267 (Agricultural Operations), U.S. Government Printing Office, Washington, D.C., 1985.

## Migrant Agricultural Ombudsman

The State of Ohio has established the Office of the Migrant Agricultural Ombudsman, within the Ohio Bureau of Employment Services, to answer questions and help with complaints. The office has a toll-free "Ohio Migrant Hotline" telephone number for:

1. camp owners and farmers who employ migrant agricultural laborers and need clarification of laws and rules or want to register a complaint; and
2. migrant agricultural laborers who want to obtain information or want to register a complaint.

Any person who believes that violations of the health department rules and regulations are taking place may report the information to the migrant agricultural ombudsman. Under the law, no person who files a report is liable for civil damages resulting from the report if the report was made on the basis of personal knowledge and belief rather than hearsay, was made in good faith, and was made without recklessness as to the truth of the information. All complaints are kept confidential.

The toll-free "Ohio Migrant Hotline" telephone number is:

**1-800-282-3525.**

# Ohio's Pesticide Safety Measures for Migrant Employees

## Objective

The objective of the pesticide safety measures for migrant pesticide applicators and field workers is to provide for the safety of migrant employees who apply, handle, or become exposed to farm pesticides.

## Definitions

Ohio law differentiates between "migrant pesticide applicators" and "migrant field workers". A migrant pesticide applicator refers to a non-permanent resident of Ohio, hired by an employer or his agent who stores, handles, mixes, or applies pesticides, or works as a flagger for pesticide applications. A migrant field worker refers to a non-permanent resident of Ohio hired by an employer or his agent who is in contact with pesticides following application or who manually handles a pesticide treated product, or who resides in an agricultural labor camp. The law also defines a pesticide treated product as any food product which has been treated with pesticide within three weeks of employee field operations.

## Employer Provisions

### Migrant Pesticide Applicator Instruction and Training

Migrant pesticide applicators under age 18 shall not handle pesticides with the words DANGER-POISON on the container or package unless they are under the close supervision of a certified pesticide applicator.

Each migrant pesticide applicator handling pesticides shall be instructed so that the safety procedures for handling pesticides are understood by that employee. This instruction or training must be completed within 30 days of the migrant employee beginning to handle pesticides, except for those pesticides which are designated as DANGER-POISON on the container or package. The instruction and training on the use of these pesticides must be completed prior to any handling or application. The instruction or training shall include

instruction on the safety procedures to be followed; safety clothing and equipment to be worn and used; common symptoms of pesticide poisoning; the dangers of eating, drinking, or smoking while handling or using pesticides; and where to obtain emergency medical treatment if an accident or contamination should occur.

Written verification of the instruction or training must be kept and must include the date of the instruction or training, extent of the instruction or training, and the signature of the migrant employee. If the migrant pesticide applicator has written verification of previous instruction or training on the handling of pesticides, the instruction or training does not need to be repeated and can be omitted. Until the instruction or training is complete, close supervision, through personal observation of work, must be provided at least every 4 hours during the day and every 3 hours during the night.

### Medical Monitoring and Health Safety

Employers must arrange for medical monitoring of each migrant pesticide applicator handling pesticides whose exposure period to any pesticide containing organophosphate or a carbamate is greater than 40 hours in any 14 day period. The medical monitoring shall follow the recommendations of "The College of American Pathology". These recommendations are for determinations of red cell and plasma cholinesterase as often as "The College of American Pathology" deems necessary.

The employer must have written evidence that such monitoring services are being provided to migrant employees and the location of this service. The employer shall follow any recommendations made by the attending physician concerning matters of occupational health for the migrant pesticide applicators handling pesticides. This includes having a migrant pesticide applicator or applicators removed from exposure to the pesticides if necessary. The employer shall post the name, address, and telephone number of the medical monitoring facility in a prominent observation place for all migrant pesticide applicators handling pesticides.

Migrant pesticide applicators may work alone with classified pesticides and chemicals carrying the DANGER-POISON label during daylight hours only if contact is made with a responsible adult by radio, phone or in person at least every 3 hours and every 2 hours during nighttime hours.

Employers must provide facilities for migrant pesticide applicators to change clothes and wash if their exposure to pesticides carrying the DANGER-POISON or WARNING label exceeds 40 hours in any 14 day period. Clean towels, soap, and adequate water must be provided at the facility. The facilities are to be located at the loading site or the location where migrant employees complete their work. Employees shall be expected to use the facilities and to leave any contaminated clothing at the facilities.

Additional facilities for routine washing, including clean water, soap, and paper towels, must be provided within 100 feet of any location where pesticides are mixed or loaded. A minimum of 10 gallons of clean water (water not subject to pesticide contamination) must be provided at the beginning of each work day for each migrant pesticide applicator mixing or loading pesticides.

The employer shall also provide clean outer clothing for all migrant pesticide applicators each day. The personnel laundering the clothing worn by the pesticide handlers and users shall be informed that they are receiving pesticide contaminated clothing and cautioned not to mix it with uncontaminated clothing.

The employer shall provide respirators, goggles, and waterproof gloves for migrant pesticide applicators in addition to the outer clothing. The employer must follow the cleaning and care instructions for this equipment as necessary.

Adequate light must be available for migrant pesticide applicators to read pesticide labels and to work in a safe manner. If adequate light is not available, the employer must provide sufficient artificial light.

The employer shall identify and secure consent from the nearest emergency transport service and medical service for the transportation and treatment of migrant laborers who handle pesticides. The name, address, and telephone number of these services must be posted in prominent places around the work area.

If the employer suspects that a migrant laborer has been exposed to a pesticide and this exposure might lead

to an illness, the employer shall make sure that the employee is examined or inspected by the medical service. The trade or chemical name of the pesticide shall be provided immediately upon request by the attending physician.

### Pesticide Equipment

Equipment being used by pesticide or chemical handlers and users shall be kept in good repair. Migrant pesticide applicators shall be instructed in the proper cleaning and repair procedures of the equipment. The equipment shall:

1. be equipped with a cover which will prevent spillage when in motion;
2. not have any flexible hoses carrying chemicals labeled DANGER-POISON and under pressure, and shall not pass unshielded through the cockpit of an airplane or helicopter; and
3. have shut off valves installed on the exit end of all hoses carrying liquid pesticides labeled DANGER-POISON.

An alternative to shut off valves is a reversing action pump or similar system which will empty hoses and eliminate dripping. After January 1, 1989, any tank of more than 60 gallons used by migrant employees to mix or apply any liquid containing a pesticide labeled DANGER-POISON must have either a properly functioning means of gauging the liquid level (in no case shall an externally protruding sight device be used) or the filler hose nozzle shall have a device that will automatically stop before the liquid spills over the top of the storage tank.

### General Safety of Field Workers

The following procedure shall be used for the safety of migrant field workers who enter areas exposed to pesticides carrying the label DANGER-POISON or WARNING or their residues may be reasonably expected to be in excess of tolerance level. Employers shall:

1. provide migrant field workers and their families with bilingual educational material supplied by the Ohio Department of Agriculture which outlines safety measures to be used by migrant field workers in pesticide treated areas and in labor camps;
2. instruct direct field supervisors of the common symptoms of poisoning and if a migrant field



worker is reasonably suspected of having pesticide poisoning, they or the employer shall provide the migrant employee with medical services immediately;

3. allow any employee who believes he/she or their belongings have been contaminated to leave the area; and
4. provide adequate handwashing facilities.

In addition, no person shall intentionally, recklessly, or negligently apply any pesticide in such a manner that it contaminates the body or clothing of any migrant field worker.

## Re-entry

Migrant field workers may not re-enter fields where a pesticide has been applied until after the pesticide has dried or the pesticide dust has settled unless the recommended protective clothing and equipment is being worn. The period allowed for pesticide drying or dust settling is not greater than 24 hours unless the label on the pesticide applied specifies a longer period. If two pesticides or chemicals are used with different re-entry intervals, the longer interval period is to be observed. If more than 1 pound of actual parathion, methyl parathion or EPN is applied per acre singly or in combination with another pesticide or chemical, then a 14 day re-entry interval must be observed. The re-entry period for methomyl on corn is 2 days. When there is no foliage on the plants treated with a pesticide, the re-entry interval shall be cut by 50 percent, but in no case shall a re-entry interval be less than 24 hours. Mixing, loading, storage, or application of pesticides shall not be allowed within the area of the migrant labor camp. The Ohio Department of Agriculture has reserved the right to alter these re-entry rules without conducting public hearings.

If migrant field workers might reasonably be expected to enter an area being treated or which has been treated with a pesticide, the employer is required to post

warning notices on bulletin boards in the labor camps, as well as in prominent places at the locations where the workers usually start their work day or in the application vehicle. The notices need to remain, and continue to be legible, for the duration of the safety interval (re-entry interval). The notices are to be written in English and Spanish. The warning notices are to be removed within 5 days after the end of the re-entry period. The employer is also required to give the field supervisor of each migrant field worker actual notice of any spraying schedule and re-entry intervals.

The warning notices are to read substantially as follows:

|                     |                      |
|---------------------|----------------------|
| <b>DANGER</b>       | <b>DANGER</b>        |
| (Name of Pesticide) | (Name of Pesticide)  |
| <b>DO NOT ENTER</b> | <b>NO ENTRE</b>      |
| <b>UNTIL</b>        | <b>HASTA</b>         |
| _____               | _____                |
| Date                | Fecha                |
| _____               | _____                |
| Grower's Name       | Field Identification |

## Employee Provisions

Generally employees are to follow all instructions and precautions provided by the employer.

## Responsible Agency

Ohio Department of Agriculture  
65 S. Front Street  
Columbus, Ohio 43215  
Telephone: (614) 466-2733

## References

*Ohio Revised Code*, Section 921.16(B)(6).  
*Ohio Administrative Code*, Chapter 901:5-53.



# Transportation of Migrant Workers, Federal Motor Carrier Safety Regulations

## Objective

The objective of these regulations is to ensure reasonably safe conditions and operation of vehicles in which migrant farm workers are being transported.

## Coverage

These regulations apply to the transportation of migrant farm workers if the total distance is more than 75 miles, but only if such transportation is across a state line. Therefore, the regulations do not apply to employers transporting farm workers within Ohio. Also, the regulations do not apply if fewer than three workers are transported at any one time, or if a passenger automobile or station wagon is used. A migrant worker transporting himself or his immediate family is not affected.

## Employer Provisions

These regulations are not oriented directly to employers of migrant farm workers. Rather, compliance is required of the person or business responsible for the transportation of the workers. This could include a crew chief who transports migrant workers, or an owner of a truck who transports a group of migrants. It does not apply to an Ohio farmer who will be the employer of migrant farm workers after their arrival in the state if the employer is not responsible for transporting the workers. Simply sending money to migrants to finance their travel to Ohio does not make an Ohio employer the transporter of the migrants for purposes of these regulations.

## Specific Provisions

The regulations pertain to qualifications of drivers or operators, the driving of motor vehicles, parts and accessories necessary for safe operation, hours of service by drivers, maximum driving time, and inspection and

maintenance of motor vehicles. There are detailed provisions under each of these categories. Those involved in transportation of migrant workers should consult the referenced regulation and/or the responsible agency for more details. Only a *brief summary* of the provisions is included here.

Each driver must have a physical examination which certifies satisfaction of minimum physical requirements. Minimum age for drivers is 21. Drivers must be experienced, have knowledge of traffic regulations and the English language, and have a driver's license. Emergency devices must be available. Hours of driving must be limited. Vehicles must be equipped in accordance with minimum requirements and must be systematically inspected and maintained. Every self-propelled motor vehicle operated by a motor carrier of migrant workers must be marked with a USDOT number obtained from the USDOT office below.

## Employee Provisions

There are no provisions which apply specifically to employees.

## Responsible Agency

The U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, Washington, D.C. 20590 regulates transportation of migrant farm workers through Federal Motor Carrier Safety Regulations.

Ohio farm employers with questions concerning transportation of migrant farm workers should contact:

US Department of Transportation  
Federal Highway Administration  
Office of Motor Carriers  
200 N. High Street, Room 328  
Columbus, OH 43215  
Telephone: (614) 469-5657.

### References

*Transportation of Migrant Workers*, Title 49, Code of Federal Regulations, Part 383-399.

# Independent Contractor Versus Employee

Whether an individual is an employee or an independent contractor is a question of fact and must be determined for each case. If an individual is an employee, then any costs of workers' compensation, social security, and unemployment insurance, as well as federal income tax withholding and Ohio income tax withholding are the responsibility of the employer. If an individual is an independent contractor, these costs and tax withholdings are the contractor's responsibility.

The principle test is the extent of the employer's control over the individual doing the work. If the employer has control over the job to be accomplished and the details and means for accomplishing the job, then an employer-employee relationship exists.

Factors which are considered in determining if an individual is an independent contractor or an employee include: whether supervision is to the work or merely to the completion of the job, whether an individual can set his/her own work schedule, who provides the tools and materials for the job, whether the individual holds himself/herself out to the public as available to work for others, the skill or expertise needed for the job, whether the individual is participating in the perquisites offered by the employer, the method of payment, and the termination rights of the parties. Two additional factors the IRS may consider are how the employer has treated similar jobs in the past and how the rest of the farming community treats similar employment.

The Internal Revenue Code regulations state that a person will be considered an employee if the employer has the right to control and direct how a job is to be performed, not only as to the result to be accomplished

but also as to the details and means. It is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he/she has the right to do so (Internal Revenue Code Regulation 31.3401(c)-1(b)).

The 1978 Revenue Act at Section 530 stated a taxpayer's classification will be considered reasonable if it was made in reasonable reliance on: (1) past IRS audit practice with respect to the taxpayer; (2) published IRS rulings or judicial precedent; (3) recognized practice in the taxpayer's industry; or (4) technical advice of a letter ruling given to the taxpayer.

Typical farm jobs classified as independent contractor include: custom crop tillage, planting, cultivation, harvesting, or hauling; veterinarian, accounting, or legal services; building construction; and farm drainage installation.

If an individual is an employee, the farm employer must withhold and pay social security, withhold income tax or pay unemployment tax if the minimum tests are met, and pay workers' compensation. For more information regarding these individual requirements, see the appropriate sections of this handbook.

If an individual is an independent contractor, the contractor withholds taxes and pays insurance premiums.

Pay to independent contractors is reported annually on IRS Form 1099, on or before January 31 of the year following employment. Any independent contractor who has received more than \$600 in the past year, who was employed by a person in a trade or business, and who is not incorporated is to receive a Form 1099.



# Guidelines for Terminating an Employee

## Employment-at-Will

Many employers hire employees without a written contract. The general rule applied by U.S. courts is that, without a written contract defining the terms of employment, an employee serves at the will of an employer and may be discharged at any time. In exercising this will, the employer incurs no legal liability. This is known as the "employment-at-will" doctrine and has been the law for over a century.

## Discharge

In recent years, the Federal government has passed laws which restrict employers' rights to discharge at will because of certain national policies. These include:

1. Title VII of the Civil Rights Act of 1964 which prohibits discharge based on race, color, religion, sex, or national origin as well as discharge in reprisal for the exercise of Title VII rights
2. the Age Discrimination in Employment Act of 1967 which prohibits discrimination, such as discharge based on age
3. the Rehabilitation Act of 1973 which provides protection for the handicapped
4. the Americans with Disabilities Act of 1990

To date, state governments have not legislated to restrict the right of employers to discharge at will. Except for the labor, antidiscrimination, and other health and social welfare statutes which specifically bar discharge, there is no federal law that prohibits an employer from discharging an employee for no reason. However, various state and federal courts have begun to create exceptions. Using these exceptions, discharged employees have brought suit for reinstatement and back pay under the theory of "wrongful discharge".

### Public Policy Exception

The majority of state courts allow discharged employees to sue when the discharge is in violation of

public policy. Public policy has been defined as that principle of the law which holds that no one can lawfully do something which has a tendency to be injurious to the public, or against the public good. This has been termed the policy of the law or public policy in relation to the administration of the law.

Some areas in which employees have been permitted to sue as against public policy include:

1. discriminatory discharge because of race, color, religion, sex, or national origin
2. discharge because the employee exercised a legal right
3. discharge because the employee performed a legal duty
4. discharge because the employee was a "whistle blower"
5. discharge because the employee refused to violate public law

Discharge of an employee in violation of any federal or state statute is prohibited.

Workers are given specific rights under statutory law; i.e., reporting deficiencies in the work environment under the Workers' Compensation, filing a complaint with the U.S. Department of Labor under the Fair Labor Standards Act, filing complaints with OSHA or refusing to work under hazardous conditions. Workers discharged for exercising their statutory rights have been found to have a cause of action for suit against their employer.

State and federal statutes provide relief by reinstatement with back pay, interest, and legal costs. Public policy suits may be filed in court in addition to the permitted statutory remedies. Some types of relief are not provided by statute, e.g., special damages for embarrassment and mental anguish. Recovery may be permitted in courts for these non-statutory types of relief and no monetary cap or limit has been set so far.

Employees discharged for performing a legal duty may have a suit against their employer for wrongful

discharge. Performance of a legal duty includes such acts as serving jury duty (protected by statute), testifying against an employer (not protected except in a few cases by local statute), or testifying in response to a subpoena.

No specific statute provides protection from discharge for an employee who reports and prosecutes a crime, but some courts have found such an employee's activities favored by public policy. Several states have statutes which protect "whistle blowers" from unlawful discharge, but Ohio does not have such a statute.

### Good Faith and Fair Dealing Exception

Some courts have permitted recovery where an employee was discharged without just cause or proper procedure. Where an employer has policies concerning discharge, those policies might indicate that employees will not be fired without a good reason. Failure to follow any established discharge policies may also be a cause for suit.

This type of discharge is sometimes termed malicious, in bad faith, or abusive. Two examples of this type of discharge are discharge to keep a pension from vesting and being fired because of grudges of supervisors.

Some courts have also been willing to allow wrongful discharge claims based under the tort theories of negligence, abusive or retaliatory discharge, and fraud.

### Implied Contract

An employment contract may be implied where an employer has made oral statements to an employee or where an employer has a set personnel policy. When an employee has relied on an employer's statements in good faith and left another job to accept employment or otherwise relied on the good faith of an employer, an injured employee may have a claim for damages under implied contract theory.

## Employer Protection

There is no way to protect against all possible lawsuits since the law continues to evolve in this area. The following guidelines are offered as suggestions to help reduce the potential for wrongful discharge claims.

1. Employers should be careful not to make oral statements that could be used to imply a contract of employment for an extended or unlimited period of time.
2. Work rules should be established. These rules should be in conformance with requirements under state and federal laws.
3. Work rules should be equally applied to all employees.
4. Employees' work performance should be regularly and fairly evaluated.
5. Personnel policies and work rules should clearly indicate that employment is at will and not by contract for an extended or unlimited period of time.
6. Any discharged employees should be treated firmly but fairly.

A general policy of informing employees of the job requirements and employer expectations, evaluating employees, warning employees when work is not satisfactory, and providing an opportunity to improve before discharge should be adopted. Such a policy may decrease the need for discharge. The employee is treated more fairly, since there is warning and an opportunity to correct problems before discharge. Where discharge becomes necessary, the employer can easily prove just cause.



# Retirement Plans for Employees

Retirement programs can be an important part of the benefit package provided employees. There are many options available to the employer. Some of these options also involve providing a retirement program for the employer. If Internal Revenue Service guidelines are followed, an employee-employer retirement plan may qualify as a tax-shelter until retirement.

Keogh, Individual Retirement Accounts, and Simplified Employee Pension (SEP) plans are tax-sheltered alternatives an employer may want to consider. There are advantages and disadvantages of each which should be carefully studied.

Keogh plan is the nickname given to plans adopted by self-employed individuals. If a self-employed farmer provides a Keogh type retirement plan for himself or herself, he or she also must provide a tax-sheltered retirement plan for "full-time" employees. This plan must be on a "nondiscriminatory" basis and must be available to employees after one year of employment.

A farm employer may elect to contribute to an Individual Retirement Account (IRA). The IRA alternative may be used to provide a tax-sheltered benefit for the farm employer and/or employees. For the contributions to be deductible, certain requirements must be met. If the individual is single and has adjusted gross income of \$25,000 or less, any contribution up to \$2,000 is deductible. If the individual is covered by a company plan and has adjusted gross income of \$25,000 to \$35,000, the deduction is phased out at a rate of \$200 for every \$1,000 increase of adjusted gross income. If the individual is covered by a retirement plan and has adjusted gross income in excess of \$35,000, the contribution is nondeductible. Different rules apply to a married couple. If the adjusted gross income is less than \$40,000 and they have taxable income of more than \$2,000 each, they can place up to \$4,000 in the trust. If only one spouse has taxable compensation, they are limited to \$2,250. If either spouse is covered by a qualified retirement plan, then their deduction is phased

out after \$50,000. Between \$40,000 and \$50,000, the deduction is reduced by \$200 for each \$1,000 increase in adjusted gross income.

A farm employer can provide retirement benefits to all eligible employees by contributing to an employee's IRA account instead of maintaining a qualified plan. This procedure is referred to as a Simplified Employee Pension (SEP-IRA) plan. The accounts are governed by most of the IRA rules. However, contributions may be greater than the \$2,000 limit for regular IRA's. The employer can deduct contributions to the SEP-IRA of a participant and the participant does not have to report them as income unless they exceed certain limits. However, if contributions are made under a salary reduction arrangement, they must be reported as wages for employment purposes.

An incorporated farmer may participate in a tax-sheltered retirement plan as an employee of the corporation. A corporate plan must also provide retirement benefits on a "nondiscriminatory" basis to all other "full-time" employees who have at least one year of employment with the corporation.

Key issues to examine when starting a retirement plan include: penalties for early withdrawal, ability to roll over the account, eligibility for participation, contribution requirements, distribution, and funding. The following sources provide more detailed information about retirement plans:

*Individual Retirement Arrangements*, Publication 590, Internal Revenue Service.

*Self-Employed Retirement Plans*, Publication 560, Internal Revenue Service.

## References

*Retirement Plans: A Guide Prepared for the 1991 Farm Income Tax Schools*, C. Allen Bock and Philip E. Harris, Editors, November, 1991.



# Employer-Employee Collective Bargaining in Agriculture

There are no state of Ohio or federal laws controlling or providing for collective bargaining by farm employers and employees. Agricultural employment is specifically exempted from the provisions of the National Labor Relations Act. The Act and its amendments establish the rules and procedures for collective bargaining in industries other than agriculture.

The Act does not make bargaining between farm employers and employees illegal; it simply does not provide the rules and procedures for such bargaining. The exemption also excludes agriculture from the services of the National Labor Relations Board.

Any collective bargaining regulations existing in other states through state laws, e.g., California laws, do not apply in Ohio. In 1986 in northwest Ohio, one

vegetable processor, several growers, and a farm labor organization entered into private collective bargaining contracts. There was one contract related to the production of cucumbers and one related to tomato production. Both of these were three-year contracts. The contracts related to issues such as the recognition of a bargaining organization for labor, procedures for hearing grievances, pay, and recognition of a paid holiday. The private contracts established a committee for monitoring and hearing grievances. In 1987 another processor, its growers, and the same farm labor organization involved entered into a similar arrangement related to the production of cucumbers. In 1991, a third processor, its growers, and the farm labor organization entered into a similar contract.



# Record Keeping Guidelines, Procedures and Sample Forms

## Objective

It is the responsibility of each farm employer to keep the labor records required as outlined in the preceding sections of this handbook. These records should be used to comply with applicable laws and regulations as well as for business management.

## Types of Records Needed

An employer needs several general types of labor records:

1. employee data sheet
2. time or work completed record
3. statement of earnings
4. permanent record
5. tax summary records
6. OSHA records (see earlier section on OSHA in this Handbook)

Although various state and federal regulations require an employer to keep certain information on employees, the regulations do not specify a particular form for records.

### Employee Data Sheet

The employee data sheet should contain such basic information as name, address, phone number, birth date, sex, and social security number. It may be used as an application form by listing previous work experience and references. Dates of hiring, dismissal, disciplinary actions, changes in wage rates, and reasons for separation could be kept on this form. Information could be obtained to document exemption for minimum wage. (See Sample Form No. 1 at the end of this section of the Handbook.)

### Time or Work Completed Record

Some type of detailed field or time record is needed for each employee. This record is needed for pay purposes if wages are based on piece work or hourly rates as well as for labor management. The information may also be needed to meet requirements of the Fair Labor Standards Act, minimum wage, unemployment insurance or workers' compensation. (See Sample Form No. 2 at the end of this section of the Handbook.)

### Statement of Earnings

A summary record of earnings and deductions should be provided to the employee for each pay period. The statement should include how the gross earnings were calculated (hourly rate multiplied by the number of hours worked; piece work units multiplied by the rate per unit; salary, etc.) minus the deductions for income taxes, social security, insurance, or retirement. (See Sample Form No. 3 at the end of this section of the Handbook.)

### Permanent Record

A permanent record for each employee is needed for filing annual social security forms, income tax forms, and keeping a running total of earnings and deductions. The system could be a separate page for each person in a loose leaf notebook or a commercially prepared ledger sheet. The record should also reflect accumulated vacation and sick leave. (See Sample Form No. 4 at the end of this section of the Handbook.)

### Computerized Employee Records

Several software packages are now available commercially to assist the farm employer in managing, retrieving, and using employee records. Although

# Record Keeping

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switching to a computerized records system can be quite time consuming, the longer-run convenience makes the change justifiable for many farm employers. Check writing and report generation features of payroll software are especially important time savers.

## Summary

The following list summarizes some of the labor records required to be kept by farm employers.

### Employee Information

Name  
Address and Telephone Number  
Social Security Number  
Birthdate and/or Age and Sex  
Occupation  
Length of Employment  
Promotions, Disciplinary actions, Dismissals, Vacation,  
Sick leave  
Performance Evaluations  
Training Given or Enrollment as Student

### Payroll Information

Pay Period Earnings  
Payroll Deductions  
Hours Worked per Day, Week, or Month  
Pay Period Date of Payment  
Time of Day and Day of Week When Worker Begins/  
Ends Work  
Basis of Earnings Including Overtime  
Beginning and Ending Hours for Meals and Breaks  
Changes in Wage Rates, Salaries, or Bonuses

### Other Information

Training Before Hiring  
On-the-job Training  
Number of Employees and Total Wages Paid  
Work-related Accidents

The length of time for maintaining labor records varies. One law requires that records be kept for five years and another requires that records be kept for the longer of three years or one year after an employee has been terminated. Therefore, considering the differing time periods required by the laws it is recommended that all employee labor records be kept for the longer of five years or one year after an employee has been terminated.

## Sample Form No. 1

EMPLOYEE DATA SHEET Date \_\_\_\_\_

Name: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_  
Home  
Address: \_\_\_\_\_  
                    Street                      City                      State                      Zip Code  
Home Telephone No.: \_\_\_\_\_  
Local  
Address: \_\_\_\_\_  
                    Street                      City                      State                      Zip Code  
Local Telephone No.: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Sex: \_\_\_\_\_  
                    Month      Day      Year

Previous Experience: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date Started: \_\_\_\_\_ Job Assigned: \_\_\_\_\_  
Date Terminated: \_\_\_\_\_  
Compensation Rates:      Date: \_\_\_\_\_      Amount: \_\_\_\_\_  
                                    Date: \_\_\_\_\_      Amount: \_\_\_\_\_  
                                    Date: \_\_\_\_\_      Amount: \_\_\_\_\_  
                                    Date: \_\_\_\_\_      Amount: \_\_\_\_\_  
                                    Date: \_\_\_\_\_      Amount: \_\_\_\_\_

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Make and Model of Car: \_\_\_\_\_  
License Number: \_\_\_\_\_  
Valid Drivers Licence: Yes \_\_\_\_\_ No \_\_\_\_\_

Housing Needed: Yes \_\_\_\_\_ No \_\_\_\_\_      Housing Unit Number: \_\_\_\_\_

Information Obtained By: \_\_\_\_\_ Date: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Sample Form No. 2

Employee No.: \_\_\_\_\_

EMPLOYEE FIELD/TIME RECORD

Name of Employee: \_\_\_\_\_

Pay Period: From: \_\_\_\_\_ to \_\_\_\_\_, 19\_\_

|      |       | -----      |                  |          |              |           |              |
|------|-------|------------|------------------|----------|--------------|-----------|--------------|
|      |       | HOUR       |                  |          |              | PIECEWORK |              |
| Date | Job   | Start Time | Non-working Time | End Time | Hours Worked | Crop      | Number Units |
| ---- | ----- | ----       | -----            | ----     | -----        | ----      | -----        |
| ---- | ----- | ----       | -----            | ----     | -----        | ----      | -----        |
| ---- | ----- | ----       | -----            | ----     | -----        | ----      | -----        |
| ---- | ----- | ----       | -----            | ----     | -----        | ----      | -----        |
| ---- | ----- | ----       | -----            | ----     | -----        | ----      | -----        |
| ---- | ----- | ----       | -----            | ----     | -----        | ----      | -----        |
| ---- | ----- | ----       | -----            | ----     | -----        | ----      | -----        |
| ---- | ----- | ----       | -----            | ----     | -----        | ----      | -----        |
| ---- | ----- | ----       | -----            | ----     | -----        | ----      | -----        |

| Hours | Rate  | Wages | Piecework Units | Rate  | Wages |
|-------|-------|-------|-----------------|-------|-------|
| ----- | ----- | ----- | -----           | ----- | ----- |

Gross Wages      Pay Period  
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## Sample Form No. 3

## STATEMENT OF EARNINGS

Pay Period: From \_\_\_\_\_ to \_\_\_\_\_, 19\_\_

Employer: \_\_\_\_\_

Address: \_\_\_\_\_  
Street City State Zip Code

Employee's Name: \_\_\_\_\_ Age: \_\_\_\_\_

Soc. Sec. No.: \_\_\_\_\_

Permanent Address: \_\_\_\_\_  
Street City State Zip Code

| Job   | HOURLY WORK |            | Hourly Wages | Crop  | PIECEWORK         |            | Piecework Wages |
|-------|-------------|------------|--------------|-------|-------------------|------------|-----------------|
|       | Hours       | Rate/ Hour |              |       | Units (i.e. lbs.) | Rate/ Unit |                 |
| ----- | -----       | -----      | -----        | ----- | -----             | -----      | -----           |
| ----- | -----       | -----      | -----        | ----- | -----             | -----      | -----           |
| ----- | -----       | -----      | -----        | ----- | -----             | -----      | -----           |
| ----- | -----       | -----      | -----        | ----- | -----             | -----      | -----           |
| Total | -----       | -----      | -----        | Total | -----             | -----      | -----           |

## DEDUCTIONS

Social Security \_\_\_\_\_  
Medicare \_\_\_\_\_  
Federal Income Tax \_\_\_\_\_  
Ohio Income Tax \_\_\_\_\_  
Other \_\_\_\_\_  
\_\_\_\_\_

Total Deductions \_\_\_\_\_

## SUMMARY

Total Hourly Wages \_\_\_\_\_  
Total Piecework Wages \_\_\_\_\_  
Gross Wages \_\_\_\_\_  
Total Deductions \_\_\_\_\_  
Net Wages Paid \_\_\_\_\_

Check Number \_\_\_\_\_

I agree that the above statement of earnings is correct.

Signature of Employee \_\_\_\_\_

## INDIVIDUAL PAYROLL RECORD 19\_\_\_\_

Name of Employee \_\_\_\_\_ Social Security No. \_\_\_\_\_  
 Street Address \_\_\_\_\_ Sex \_\_\_\_\_ Birthdate \_\_\_\_\_  
 Town \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Occupation \_\_\_\_\_

| 1.    | Period<br>Ending | Basis of<br>Earnings |              | Rate | Regular Time<br>Earnings | Other<br>Compensation | Gross<br>Earnings<br>(A) | Social<br>Security<br>Withheld<br>(B) | Federal<br>Income<br>Tax<br>Withheld<br>(C) | Ohio<br>Income<br>Tax<br>With-<br>held<br>(D) | Other<br>Deduc-<br>tions<br>(E) | Net Amount<br>Paid Employee<br>(F)<br>A-(B+C+D+E)=F | Check<br>No. | Date<br>Paid |
|-------|------------------|----------------------|--------------|------|--------------------------|-----------------------|--------------------------|---------------------------------------|---|---|---------------------------------|---|--------------|--------------|
|       |                  | No.<br>Hours         | No.<br>Units |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 2.    |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 3.    |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 4.    |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 5.    |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 6.    |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 7.    |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 8.    |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 9.    |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 10.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 11.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 12.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 13.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 14.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 15.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 16.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 17.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 18.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 19.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 20.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 21.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 22.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 23.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 24.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 25.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| 26.   |                  |                      |              |      |                          |                       |                          |                                       |   |   |                                 |   |              |              |
| Total |                  |                      |              |      |                          |                       | *                        | *                                     | *   | *   |                                 |   |              |              |

\*Total Directly to W-2 Form

NOTE: Make Notations Concerning Sick Leave and Vacation in APPROPRIATE PAY PERIODS

# List of Responsible Agencies

## Equal Employment Opportunity Commission

1375 Euclid Avenue  
Cleveland, OH 44115  
Phone: (216) 522-7425

Room 7019  
Federal Office Building  
550 Main Street  
Cincinnati, OH 45202  
Phone: (513) 684-2851

## Immigration Naturalization Service (INS)

Deputy Assistant Commissioner  
Investigation Division  
Room 2207  
425 I Street, N.W.  
Washington, DC 20536  
Phone: (202) 514-0747

Federal Building, Room 1917  
1240 East Ninth Street  
Cleveland, OH 44199  
Phone: (216) 522-4770

550 Main St.  
Room 8525  
Cincinnati, OH 45202  
Phone: (513) 684-3781

## Internal Revenue Service (IRS)

Federal tax information and forms: 1-800-829-3676

## Occupational Safety & Health Administration (OSHA)

Chicago      Regional Director - OSHA  
Regional Office Federal Office Building,  
Room 3244  
230 S. Dearborn Street  
Chicago, IL 60604  
Phone: (312) 353-2220

Cincinnati      Area Director - OSHA  
Area Office      36 Triangle Park Drive  
Cincinnati, OH 45246  
Phone: (513) 841-4132  
Toll Free: 1-800-582-1708

Cleveland      Area Director - OSHA  
Area Office      Federal Office Building, Room 899  
1240 East 9th Street  
Cleveland, OH 44199  
Phone: (216) 522-3818

## Ohio Bureau of Workers' Compensation

Ocasek Government Building  
161 S. High St., Suite 300  
Akron, Ohio 44308-1617  
Telephone (216) 379-3111  
Counties: Summit, Portage, Medina

56319 National Road  
Bridgeport, Ohio 43912-0388  
Telephone (614) 635-1163  
Counties: Belmont, Monroe, Jefferson, Harrison

4895 Dressler Rd., N.W.  
P.O. Box 35545  
Canton, Ohio 44735-5545  
Telephone (216) 493-2700  
Counties: Stark, Wayne, Holmes, Tuscarawas, Carroll

125 E. Court St., 8th Floor  
Cincinnati, Ohio 45202-2196  
Telephone (513) 852-3341  
Counties: Hamilton, Clermont, Brown

615 Superior Ave. W, 6th Floor  
State Office Tower  
Cleveland, Ohio 44113-1889  
Telephone (216) 622-3050  
Counties: Cuyahoga, Lorain, Lake, Geauga

## Responsible Agencies

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71 Town Square, P.O. Box 780  
Lima, Ohio 45802-0780  
Telephone (419) 227-3127  
Counties: Allen, Paulding, Putnam, Van West,  
Auglaize, Mercer, Hardin, Hancock

1225 W. Hunter St.  
Logan, Ohio 43138-0630  
Telephone (614) 385-5607  
Counties: Athens, Meigs, Gallia, Hocking, Vinton,  
Jackson, Fairfield

2281 Village Mall, PO Box 8051  
Mansfield, Ohio 44906  
Telephone (419) 747-4090  
Counties: Richland, Ashland, Erie, Huron, Knox,  
Morrow, Crawford, Marion, Seneca, Wyandot

724 Findlay St.  
Portsmouth, Ohio 45662-4195  
Telephone (614) 353-2187  
Counties: Scioto, Highland, Adams, Lawrence, Pike

1117 E. Home Road, PO Box 1467  
Springfield, Ohio 45501-1467  
Telephone (513) 399-8621  
Counties: Logan, Champaign, Clark, Greene

106 N. High St.  
Columbus, Ohio 43266-0524  
Telephone (614) 466-6446  
Counties: Franklin, Delaware, Union, Licking,  
Pickaway, Ross, Fayette

7691 Poe Ave., P.O. Box 14666  
Dayton, Ohio 45414-4666  
Telephone (513) 898-2866  
Counties: Montgomery, Darke, Miami, Shelby

222 High St., 4th Floor  
Hamilton, Ohio 45011-2817  
Telephone (513) 868-3400  
Counties: Butler, Warren, Clinton

One Government Center  
Suite 1236, P.O. Box 794  
Toledo, Ohio 43695-0794  
Telephone (419) 245-2700  
Counties: Lucas, Madison, Ottawa, Wood, Fulton,  
Henry, Defiance, Sandusky, Williams

100 Westchester Dr., Suite 20  
P.O. Box 4294  
Youngstown, Ohio 44515-0294  
Telephone (216) 793-3977  
Counties: Mahoning, Preble, Trumbull, Columbiana,  
Ashtabula

601 North Underwood  
Suite A, P.O. Box 150  
Zanesville, Ohio 43702-0150  
Telephone (614) 452-3629  
Counties: Muskingum, Guernsey, Perry, Morgan,  
Washington, Noble, Coshocton

**Ohio Civil Rights Commission**  
220 Parsons Avenue  
Columbus, Ohio 43215  
Phone: (614) 469-2785.

Also OCRC offices in Toledo, Akron, Cleveland,  
Dayton, and Cincinnati.

**Ohio Department of Agriculture**  
65 S. Front Street  
Columbus, Ohio 43215  
Phone: (614) 466-2733

**Ohio Department of Health**  
246 North High Street  
Columbus, OH 43266-0588  
Telephone: (614) 466-1450.

Northwest District Office  
Toledo Government Center - 13th Floor  
Toledo, Ohio 43604  
Phone: (419) 245-2840

**Northeast District Office**  
Ocasek Building, Suite 400  
161 South High Street  
Akron, Ohio 44308-1616  
Phone: (216) 379-1300

**Southwest District Office**  
40 South Main Street  
Dayton, Ohio 45402  
Phone: (513) 285-6250

**Southeast District Office**  
2197 Front Street  
Logan, Ohio 43138  
Phone: (614) 385-6851

**Ohio Department of Industrial Relations**  
Division of Women and Minors and Minimum Wage  
2323 W. 5th Avenue  
P.O. Box 825  
Columbus, OH 43215 (central office);  
Phone: (614) 481-5415.

**Ohio Department of Taxation**  
Income Tax Division  
P.O. Box 2476  
Columbus, OH 43216.  
1-800-282-1780

**Ohio Governor's Council on People With Disabilities**  
400 East Campus View Boulevard  
Columbus, Ohio 43235-4604  
Phone 614-438-1393  
1-800-282-4536 Extension 1391

**President's Committee on Employment of People with Disabilities**  
1331 F Street, NW  
Washington, DC 20004  
Phone 202-376-6200 (VOICE)  
202-376-6205 (TDD)

**Rural Manpower Services**  
Ohio Bureau of Employment Services,  
145 S. Front Street, Box 1618  
Columbus, Ohio 43216  
Telephone: (614) 466-2656.

**Social Security Administration**  
See local phone book

**US Department of Transportation**  
Federal Highway Administration  
Office of Motor Carriers  
200 N. High Street, Room 328  
Columbus, OH 43215  
Phone: (614) 469-5657.

**U.S. Department of Labor, Wage and Hour Division**  
525 Vine Street, Suite 880  
Cincinnati, OH 45202-3268  
Phone: (513) 684-2902

Room 817, Federal Office Building  
1240 East 9th Street  
Cleveland, OH 44199-2054  
Phone: (216) 522-3892

Room 646, Federal Office Building  
200 North High Street  
Columbus, OH 43215-2475  
Phone: (614) 469-5677.

**Special Minimum Wage Programs**  
230 South Dearborn Street, Room 562A  
Chicago, IL 60604-1591.

## Ohio Bureau of Employment Services Offices

| City             | Address  | Telephone    |
|------------------|--|--------------|
| Akron            | 150 E. Market St., 44308                             | 216-434-2141 |
| Ashtabula        | 2211 Lake Ave., (P.O. Box 630), 44004                | 216-922-2132 |
| Cambridge        | 401 Wheeling Ave., 43752                             | 614-432-6355 |
| Canton           | 1100 Cleveland Ave. N.W., 44702                      | 216-454-5111 |
| Chillicothe      | 38 Marietta Road, P.O. Box 9188, 45601               | 614-775-3322 |
| Cincinnati       | 1916 Central Parkway, 45214                          | 513-852-3126 |
| Cleveland (East) | 14801 Broadway, Maple Heights, 44137                 | 216-662-6870 |
| Cleveland (West) | 5739 Chevrolet Blvd. Parma, 44130                    | 216-622-3505 |
| Columbus         | 899 E. Broad St., 43205                              | 614-466-1817 |
| Dayton           | Col-Don Building, 3rd Floor, 627 Salem Avenue, 45406 | 513-276-5095 |
| Defiance         | 1931 E. 2nd St., McDonald Plaza, 43512               | 419-782-6050 |
| Findlay          | 1644 Tiffin Rd., 45839                               | 419-423-2980 |
| Hamilton         | 130 Main St., 45012                                  | 513-867-8484 |
| Lancaster        | 315 N. Columbus St., 43130                           | 614-653-4262 |
| Lebanon          | 916 Columbus Ave., 45036                             | 513-932-5981 |
| Lima             | 799 N. Main St., 45802                               | 419-223-2010 |
| Lorain           | 201 W. Erie Ave., 44052                              | 216-244-1089 |
| Mansfield        | 88 W. 3rd St., 44901                                 | 419-524-4511 |
| Marietta         | 217 3rd St., P.O. Box 358, 45750                     | 614-373-7022 |
| Marion           | 347 N. Main St., 43302                               | 614-382-1115 |
| Middletown       | 1236-40 Central Ave., 45042                          | 513-422-4567 |
| Newark           | 144 W. Main St., P.O. Box 670, 43055                 | 614-345-3402 |
| Painesville      | 1314 Mentor Ave., P.O. Box 350, 44077                | 216-352-6106 |
| Portsmouth       | 1005 4th St., P.O. Box 29, 45662                     | 614-354-7771 |
| Sandusky         | 165 Jackson St., P.O. Box 930, 44870                 | 419-625-5732 |
| St. Clairsville  | Ohio Valley Shopping Mall, PO Box 77, 43950          | 614-695-4431 |
| Springfield      | 239 E. Columbia St., P.O. Box 1527, 45501            | 513-325-7326 |
| Steubenville     | 248 N. 4th St., P.O. Box 340, 43952                  | 614-283-4165 |
| Toledo           | 1814 Madison Ave., P.O. Box 954, 44501               | 419-245-2996 |
| Youngstown       | 2026 South Ave., P.O. Box 1198, 44501                | 216-744-4216 |
| Zanesville       | 711 E. Main St., 43701                               | 614-452-5491 |

